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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 667

UNITED STATES, PETITIONER,

versus

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

Opposition and Response to Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

BRIEF FOR CURTIS M. THOMAS, REGISTRAR OF VOTERS, WASHINGTON PARISH, LA.

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OPINIONS BELOW.

The United States has correctly informed the Court as shown by its brief on page 1 thereof.

JURISDICTION.

Statement of the United States on page 2 of its brief is correct.

STATUTES INVOLVED.

42 U. S. C. 1971 (R. S. 2004, as amended by the Civil Rights Act of 1957, 71 Stat. 637.)

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QUESTIONS PRESENTED.

Whether the Civil Rights Act of 1957 is constitutional.

Does the Federal Court have jurisdiction over the controversy here in question.

Where there are valid state laws as to qualification of voters, can a Federal Court injunction supercede the state law.

Whether a mandatory injunction may be exercised to bestow a right to vote on otherwise unqualified voters.

Whether a Registrar of Voters, in the performance of his mandatory duties can discriminate in the performance of such duty.

Whether a Federal Court under the Civil Rights Act of 1957 can collaterally pass on the qualification of a voter for a state election.

Whether or not a Federal Court can mitigate state literacy requirements of a constitutionally valid literacy test.

Whether the judgment of the Federal District Court was erroneous and contrary to the law and the evidence presented.

STATEMENT.

On June 9, 1959, the Attorney General, acting on behalf of the United States and purportedly under the authority granted by the Civil Rights Act of 1947 (42 U. S. C. 1971 (c)), filed an action in the United States District Court for the Eastern District of Louisiana. The defendants named in the complaint were the citizens Council of Washington Parish, Louisiana (the "Citizens Council"); four members of the Citizens Council (the "individual defendants"); and Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana (the "Registrar"). The complaint alleged that certain specified discriminatory acts of these defendants had resulted in the removal from the registration rolls of Washington Parish, Louisiana, of large numbers of Negro citizens who had previously been registered and entitled to vote.

The finding, conclusions and the decree of the District Court can be found at page 158, *et seq.*, of the record.

SUMMARY OF ARGUMENT.

As applied to state action, 42 U. S. C. 1971 (a), (b), (c) and (d) are unconstitutional for the various reasons advanced before this Court in the *United States v. Raines*, No. 64, of this term. In addition, the State of Louisiana presents the argument as to the jurisdiction of any Federal Court to pass upon the qualification of voters of a sovereign state, to such an extent as to set up the qualifi-

cations for such voters. The State of Louisiana advances the argument that as to its citizens, the State and the State alone can set up the requirements as to suffrage as long as those requirements are not an abridgment of a citizen's right under the provisions of the Federal Constitution. That under the law and the evidence presented there is no discrimination against any individuals based on their race, color, or previous condition of servitude. The respondent also challenges the use of mandatory injunction by the Federal Court to collaterally pass on the qualification of its citizens to vote, and the literacy standards prescribed by State Constitution and Statutes, and that the judgment of the Federal District Court was contrary to the law and the evidence.

ARGUMENT.

I.

The Federal Court Does Not Have Jurisdiction Over This Controversy Here in Question.

The original complaint filed by the United States herein states in the first allegation (R. 2) that this action is brought under Part IV of the Civil Rights Act of 1957 (42 U. S. C. Sec. 1971), and further alleges Sub-section (a) of 1971. This Sub-section indicates all citizens of the United States who are **otherwise qualified by law** to vote at any election by the people in any state, territory, etc. It is suggested to the Court that there is no jurisdiction herein for the hearing of the present matter, nor have the complainants shown a right of action against the defendant for reason that the persons on whose behalf this action is brought are not **otherwise qualified by law.** As admit-

ted in the original complaint, all of the parties allegedly aggrieved, had deficiencies in their registration applications. As a result of these deficiencies they were challenged by certain original defendants herein, as a result of which challenges they were sent notifications to appear within ten days to assert their right to remain on the registration rolls despite the challenges. None of these alleged aggrieved parties availed themselves of this privilege during the ten days allowed them by law, nor have they attempted to re-register since that time. Consequently, these parties are not **otherwise qualified by law to vote** at any election by the people in the state. Therefore, even should this Court hold that the Civil Rights Act is Constitutional, which is denied by defendant herein, it is still asserted that this Court has no jurisdiction over the complainants herein under this act for the reason as stated, that the act pertains, particularly Section (a) thereof, only to citizens who are **otherwise qualified by law.**

The Civil Rights Act, under which this action is brought, purportedly finds its authority by the Fifteenth Amendment to the United States Constitution and particularly Section 2 thereof. However, this Court has previously stated that:

> "Beyond a doubt the Fifteenth Amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support

and both the authority of the Nation and the State would fall to the ground." *Guinn v. U. S.*, 35 S. Ct. 926, 238 U. S. 347.

This Court has further stated that:

"the right to vote in the states comes from the states; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by this Amendment but the last has been." *U. S. v. Cruikshank*, 92 U. S. 555.

Also, speaking of the Fifteenth Amendment, it has been said:

"this Amendment does not confer the right of suffrage upon anyone, nor does it secure or guarantee any right of suffrage to any class of citizens. It has no other force or effect than to forbid discrimination by the United States and by the States on account of race, color, or previous condition of servitude." *Lacky v. U. S.*, 107 F. 114.

In speaking of Section 1 of the Civil Rights Act of 1870, the language of which is the same as that of 42 U. S. C. 1971 (a) of Part IV of the Civil Rights Act of 1957, under which this complaint is brought, Honorable Justice Clifford in a concurring opinion in *U. S. v. Reese*, p. 567, said:

"Disability to vote, of every kind, arising from race, color, or previous condition of servitude, is declared by the First Section of that Act to be removed from the colored citizen; but unless otherwise qualified by law to vote at such an election, he is no more

entitled to enjoy that privilege than any white male citizen who does not possess the qualifications required by law to constitute him a legal voter at such elections.

"Legal disability to vote at any such election, arising from race, color, or previous condition of servitude, is removed by the Fifteenth Amendment."

Justice Clifford, speaking further of qualification, says:

"Nothing short of the performance of the prerequisite act will entitle any citizen to vote at any such election in that State, if the opportunity to perform the prerequisite is furnished as required by the Act of Congress.

"Such an offer to perform can have the same effect in law as actual performance, only in case where it failed to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance; from which it follows that the offer must be made in such terms and under such circumstances that, if it should be received and carried into execution, it would constitute a legal and complete performance of the prerequisite act." *U. S. v. Reese*, p. 569.

Therefore, it is respectfully submitted that unless and until these persons have been qualified to vote by state laws, that there is no right or cause of action under 42 U. S. C. 1971 (a), and that consequently this Court has no jurisdiction thereof.

Webster's International Dictionary defines "qualified" as being.

"1. Possessed of certain qualities or capacities.

2. (a) Fitted by accomplishments or endowments for certain purposes; competent; fit:

(b) Having complied with the specific requirements or precedent conditions for an office, appointment, employment, etc.;"

And further, this same source defines "qualified voter" as being:

"One who possesses certain specific qualifications for voting, especially as to citizenship, age and residence, and sometimes also as to literacy and ownership of property."

It is brought to the attention of the Court that this definition of "Qualified" has been used by the courts in *State, ex rel. Evans, v. Wheatley*, 125 S. W. (2d) 101 and *Peoples v. Palen*, 26 N. Y. S. 225, as well as *State v. Llewellyn*, 167 P. 414, and also in *Trusted Funds, Inc., v. Dacey*, 160 F. (2d) 413, holding that qualified "means more than simply physically and mentally qualified".

The historical background of the Civil Rights Act is bereft with numerous argument pro and con. To the extent that it must be conceded that its drafters took full cognizance of the definition and terminology of every phrase thereof. By careful analysis of the first sentence of Section (a) of 42 U. S. C. 1971, states that:

"All citizens of the United States who were **otherwise qualified by law to vote** at any election by the people in any state . . ."

it is obvious that its drafters recognized the fact that the qualifications of voters was strictly within the realm of the various states to determine.

Under the system of dual sovereignty of the Constitution, Article 1, Section 2, provides that the House of Representatives should be composed of members chosen by the people of the several states and the electors in each state to have the qualifications prerequisite for electors of the most numerous branch of the state legislators.

The Seventeenth Amendment, which was ratified on May 31, 1913, made the same qualifications apply to the United States Senators.

Other than as stated above, there is no Constitutional provision, nor has Congress ever attempted to pass any law setting forth qualifications of voters. The United States Constitution by Amendment Fifteen has simply restricted any discrimination by a state against any citizen by reason of his race, color or condition of previous servitude.

> ". . . the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution . . ." *Pope v. Williams*, 193 U. S. 621, p. 822.

> "Congress did not intend to abolish state laws which prescribe the qualifications of voters, or even to alter them, except so far as they were founded upon the distinction of race, color, or previous condition of servitude." *Ex parte McIllwee*, C. C. Va. 1870, 16 Fed. Cas. No. 8820.

The qualifications to vote in the State of Louisiana are set up in its Constitution by Article 8, Section 1, *et seq.* (see appendix) and its legislature has set up the same Constitutional provisions and the conditions precedent for an elector to become a registered voter and the conditions under which after an elector has become registered, whereby his name must be removed if it is later found that such registered voter has not complied with the provisions of the law. The suit by the Attorney General on behalf of these applicants alleges that your defendant removed 1,377 voters from the rolls but produced documentary proof of only 155 whom he alleges were removed on account of what he termed technical irregularities and deficiencies. But despite the lack of such evidence, the District Court has commanded all 1,377 persons to be replaced on these rolls without any knowledge of their present status, whether living or dead, inmates of public institutions (*i. e.*, mental hospitals, penitentiaries or jails), or no longer having residence requirements, or having any knowledge for the reasons for their removal from the rolls. This evidence, while not in the printed record, is in the form of exhibits which by stipulation form a part of these proceedings. These persons were removed from the rolls over a period from November 4, 1958, to June 16, 1959, and no evidence was offered that any of these persons had attempted to remain on the rolls by observance of conditions of the Louisiana law, nor had any of them taken legal action in the state Court against the registrar of voters and the challengers to prevent their removal, nor had the United States Attorney General brought any action to prevent their removal on account of alleged discrimination. No evidence was offered, that after these complainants were advised that they had not observed the condi-

tions set forth by Louisiana law, that they made any attempt to again register, which they could have done and can still now so do. Since the period of these challenges in the State of Louisiana, Parish of Washington, as alleged in the complaint were between November 4, 1958, and June 16, 1959, and since the filing of this complaint on June 29, 1959, none of these parties have availed themselves of the right to re-register. The removal of their names from the rolls did not prevent them from again registering and observing the conditions imposed by Louisiana law which they had a legal right to do and can still do prior to April 19, 1960, so that no state action taken by the registrar in the removal of their names has deprived them of their right to register and vote in the coming general election on that date. Their complaint is simply that having been once on the rolls, their application form being admittedly erroneous, that the motivating cause of the other defendants herein was because of their color and that because these other defendants did not challenge an equal number of white persons that this constitutes a discrimination and that they therefore should be placed back on the rolls with other persons who may be similarly unqualified. The complaint of the United States Attorney General, in effect, is asking for injunctive relief under the Civil Rights Statutes to enjoin the registrar, in defiance of Louisiana law, not to remove any persons whose legal right to remain on the rolls has been challenged and to perpetuate a nonobservance of the conditions imposed by the Louisiana Constitution and law.

The evidence submitted herein shows that the removal of these names from the rolls was *a fait* ~~a complete~~, and that at the time of the filing of the complaint herein

all of the alleged aggrieved parties had been removed from the rolls, some even as long as five months prior thereto. Therefore, there was nothing upon which an injunction could be based. The decree of the District Court is in effect a mandamus to compel a state official to replace on the rolls persons who have not observed conditions of registration. The District Judge, in order to do so, passed upon the qualifications of these former registrants. These qualifications are strictly a matter of State concern and could be passed upon only by a State Court, which Court would have the right, and the duty to pass upon both State and Federal Constitutional rights, there being no reason to presume that the State Courts would shirk their duty or would be any less zealous in protecting the Federal Constitutional rights than would a United States Court. And should State Courts fail to do so, or make any ruling on Federal Constitutionality contrary to any ruling previously made by this Court, such action would be immediately reviewed by Your Honors. In other words, we contend that before an injunction could issue, the United States Attorney General must allege facts under the Civil Rights Act showing that the persons are "otherwise qualified" to vote by alleging their qualifications and observance of conditions of Louisiana law whereas his complaint in fact shows a breach of observance of conditions in the applications for registration.

II.

42 U. S. C. 1971, Section IV, Is Unconstitutional.

Inasmuch as this action is based upon 42 U. S. C. 1971, which purports to legislate against deprivation of voting rights in state elections, by reason of race, color

or previous condition of servitude, and further that the Judge of the United States District Court, from whence this action emanates, stated in *U. S. v. McElveen*, 177 F. Supp. 357, p. 358:

> "It is admitted by the United States that the Sections of the Act in suit, since they specifically apply to all elections, are predicated on the Fifteenth Amendment."

And that the brief submitted by the United States herein attempts throughout to justify the said Act under the Fifteenth Amendment. The contention of the defendant Registrar herein is that this Civil Rights Act is not appropriate legislation under the said Fifteenth Amendment. For purpose of reiteration, we quote the language of the *Fifteenth Amendment* as follows:

> "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> "Section 2. The Congress shall have power to enforce the Article by appropriate legislation."

As was indicated by the Honorable W. N. Hamilton of Maryland, in the United States Senate on May 18th and 19th, 1870 (Congressional Globe, Part 7, Second Session, 41st Congress, page 353), while commenting upon this Amendment, stated:

> "A fair construction of its terms, with a contemporaneous exposition of its meaning and effect, the following propositions may be logically deducted:

"(1) That it does not confer upon Congress any power to establish qualifications of electors in the States.

"(2) That it prohibits the United States from denying or abridging the rights of citizens of the United States to vote on account of race, color, or previous condition of servitude in places where the United States have the power of establishing the qualifications of electors and of regulating elections and the elective franchise, as in the District of Columbia and the territories of the United States.

"(3) That it prohibits the United States from denying or abridging the right of citizens of the United States to vote on account of race, color, or previous condition of servitude within their jurisdictions respectively.

"(4) That in all of the respects the several States have within themselves, and the United States in such places as it has jurisdiction, as I have before stated, in this District and in the territories, the full and perfect power to fix the qualifications of electors.

"(5) That it does not deny or in the least abridge or affect the full and perfect power always possessed, enjoyed, and exercised by the States to regulate their elections and to prescribe the mode and manner in holding them, subject, and subject only to the limitations . . . of the Constitution of the United States, which grants

> to Congress the power to make or alter any regulations made by a State prescribing the time, place and manner of holding elections for Senators and Representatives in Congress - - -."

In all other respects whatsoever the rights of the States to regulate their elections remain to them unimpaired and complete. In fact, the intent and effect of this Amendment were to avoid exclusion from voting by reason of color or race. It means nothing more; it does nothing more. (Congressional Globe, Part 7, page 354.) The Amendment by its very plain wording, is purely negative and prohibitory in its terms; it denies and prohibits the exercise of certain powers.

As was further mentioned by the Honorable W. N. Hamilton:

> "The denial by the Constitution of the United States to the States of the right to exercise certain enumerated powers does not thereby grant to Congress the right to exercise them. The denial to a State is not a grant to Congress. Unless in the Constitution a grant is made to Congress this denial to the State leaves both Congress and the States without the right to exercise such powers." *Cruikshank*, 92 U. S. 555, page 557."

The Honorable Senator Hamilton further advances the idea that:

> "This Amendment speaks to the States; not to the people, but to the State as a body-politic;"

This was recognized by this Court when it stated:

> "The right to vote in the States comes from the States; but the right of exemption from the prohibitive discrimination comes from the United States. The first has not been granted or secured by this Amendment but the last has been." *U. S. v. Cruikshank*, 92 U. S. 555, page —."

and further that:

> "This Amendment does not confer the right of suffrage upon anyone, nor does it secure or guarantee any right of suffrage to any class of citizens. It has no other force or effect than to forbid discrimination by the United States and by the States on account of race, color, or previous condition of servitude." *Lacky v. U. S.*, 107 F. 114, page 118.

It is suggested to the Court that the Civil Rights Act is unconstitutional for reason that it grows out of a negative Constitutional power but in effect and application grants affirmative and substantive rights which are not contemplated by the Fifteenth Amendment. The facts of the instant case, conclusively prove that this is true. Herein we have a group of persons who admittedly are deficient in their qualifications for registration, yet, by use of the Civil Rights Act, the United States and the Court below by its decree, would place these unqualified people back on the rolls and grant to them a right to vote, which is not authorized under the Fifteenth Amendment. It is further submitted that the said judgment of the

lower court, based on the Civil Rights Act of 1957, granted to these particular persons a substantive right because of their color, in the area of qualification where only the State has the right to pass upon this question.

It is further urged that the Civil Rights Act of 1957 is unconstitutional by the scope of Sub-section A thereof. This Section is found in brief of counsel for the United States on pages 2 and 3. However, reference is made to the pertinent part thereof:

> "All citizens of the United States who are otherwise qualified by law to vote . . . shall be entitled to vote at all such elections, without distinctions of race, color or previous condition of servitude; any Constitution law, custom, usage or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding."

This Section paraphrased in its simpliest terms means only that every citizen otherwise qualified to vote in State elections shall be entitled and allowed to vote in such elections, without distinction as to their race, color or previous condition of servitude, **even though there might be a State Constitution, law, custom, usage, or regulation to the contrary, or which might prohibit them to vote because of their race, color or previous condition of servitude, or even though such act of discrimination may have been done by or under the authority of any State or Territory.** There is nothing in this Section which lends itself to the interpretation that the prohibition to discrimination is levied **only at the States.** Further comments were stated in the reply brief for James Griggs Raines, which

was submitted to this Court in matter Number 64 and on page 2 thereof:

> "The scope of the Section is broad enough to cover individual action as well as acts which may be paramount to abridgment or deprivations by a State. This becomes even more clear when Section (a) is read in connection with the first words of Section (c).
>
> "Whenever **any person** has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by Section (a) . . ."

The phrase "any person" is broad enough to include any individual even though he be not a State officer whose acts may be considered denials or abridgments by the State.

The verbiage and context of the Fifteenth Amendment are perfectly clear in asserting that the right of citizens to vote shall not be denied or abridged **by the United States or by any State on account of race, color, or previous condition of servitude**; certainly if it had been the intent of Congress to limit the protection sought by the Civil Rights Acts only to those acts of a State, it could have done so in the same explicit language. The phrase "any person" in Section (c) thereof certainly does not lend itself to a conclusion that it was the intention of Congress to so limit the protection of the Act. And:

> "Thus, it will be seen that, if Section 1971 (c) is Constitutional, it is because of the power given Con-

gress by the Fifteenth Amendment. As stated, that Amendment relates solely to action by the United States or by any State and does not contemplate wrongful individual acts." *U. S. v. Raines*, 172 F. Supp. 552, p. 557.

In his opinion in the District Court, in the *Raines* case, Chief Judge Davis foresaw an exact situation such as we have before the Court today. When speaking of the unconstitutional portion of the Statute he said:

"This indicates that the Statute as written is sufficiently broad to include unconstitutional matter, but that the Attorney General expressed his intention of administering it in such a way as to seek no unconstitutional relief. While this is a noteworthy sentiment, the tenure of Attorney General being what it is, the Courts can hardly rely on his intentions as to the administration of an Act which in itself would purport the grant of unconstitutional relief, if requested." (Page 562.)

In the instant matter, as seen by brief of counsel for the United States herein, pages 22 and 23, the action herein was "triggered" by the issuance of challenges by various private citizens. The brief refers to these persons as "private Attorneys General". While it will be admitted that these persons were private individuals, by no stretch of the imagination can it be concluded that they are Attorneys General. The brief further states that the fact that because these persons searched State records, in a State office, and used a State provided mimeographed form and

under a State Statute, all dealing with the qualifications of voters, that this constitutes these persons "private Attorneys General" of the State of Louisiana, and as such, extending the verbiage of the Fifteenth Amendment, "by any State" through the "color of law theory" to include those people who merely walk into a public building or peruse a public record. Certainly such a conclusion would do severe violation to the opinion of Mr. Justice Frankfurter while concurring in *Snowden v. Hughes*, 321 U. S. *13-17*, when at page 16 the Justice said:

> "But to constitute such unjust discrimination the action must be that of the State. Since the State, for present purposes, can only act through functionaries, the question naturally arises what functionaries, acting under what circumstances, are to be deemed the State for purpose of bringing suit in the Federal Courts on the bases of legal State action. The problem is beset with inherent difficulties and naturally has had a fluctuating history in the decisions of the Court. Compare Mordy versus City of New York, 193 U. S. 430 with Raymond versus Chicago Traction Company, 207 US 20, Memphis versus Cumberland Telephone Company, 218 US 624, with Home Tel. & Tel. Company versus Los Angeles, 227 US 278. It is not to be resolved by abstract considerations such as the fact that every official who purports to wield power conferred by a State is pro tanto the State. Other-

> wise every illegal discrimination by a policeman on the beat would be State action for purpose of suit in a Federal Court."

It is further urged and called to the attention of this Court that:

> "Section (c) creates a remedy against purely private, as distinguished from State, deprivation of voting rights on account of race or color." *U. S. v. Raines*, p. 561.

and consequently is unconstitutional legislation and inappropriate under the Fifteenth Amendment.

Therefore, when the question of Constitutionality *vel non* of a Statute is presented, wherein that Statute has one part which is unconstitutional, this Court has held that:

> "For this purpose, we must take these Sections of the Statute as they are. We are not able to reject a part which is unconstitutional and retain the remainder, because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the Section, but by inserting those that are not now there." *U. S. v. Reese, supra*, 221.

Therefore, Part IV of the Civil Rights Act of 1957 (P. L. 85-315, 71 Stat. 634; 42 U. S. C. Sec. 1971) under which this action is brought is unconstitutional in its entirety.

III.

Under Louisiana Law Registration of an Individual and His Privilege to Vote Are Based on His Meeting the Requirements of the Constitution and Laws of the State of Louisiana.

In order for an individual to participate in elections, either State or Federal, it is necessary that he meet the requirements established by the States. The Constitution of the State of Louisiana and various legislative acts set out the qualifications and requirements that an individual must possess before he becomes a qualified voter of this State. Article 8, Section 1, *Constitution of the State of Louisiana*, 1921, and *Louisiana Revised Statutes, Title 18, Section 1, et seq.*, and *Louisiana State Constitution*, Article 8, Section 17.

A reading of the Constitutional provisions and requirements can be seen that the privilege to vote in the State of Louisiana can be set down basically as follows:

1. A person must obtain the age of at least 21 years of age, and be a native born or naturalized citizen to become an elector;
2. Must meet a resident requirement within the State, Parish, or municipality where he lives, and
3. Must be registered as a voter.

All three elements must be present at the same time an individual applies for registration. If one of the elements are missing, the individual involved cannot, and should not, be declared to be a qualified voter of this State. *Constitution of Louisiana*, 1921, Article 8, Section 3.

Some of the requirements called for under the Constitution and Legislative Acts, such as age, residency, and citizenship, are requirements which can be established by an individual through the production of documents or other evidence. However, the requirements as to being **registered** require the assertion by the individual of doing certain things under the law or constitution of Louisiana to indicate that the individual attempting to qualify as a registered voter has met the specific requirements of the Louisiana Law. Article 8, Section 1-B, *Constitution of the State of Louisiana*, 1921. In order to be a registered voter, one must be able to meet requirements as to character, and literacy. In order to show his ability to read or write or his inability to do so, he must complete, what has been called, a registration form or card or an application for registration, or he must indicate that he is unable to complete this card, or application, completely because of his inability to read or write. In addition to this literacy test, the applicant is required to read any clause in the United States or State Constitution, and give a reasonable interpretation thereof, Article 8, Section 1, of the *Constitution of the State of Louisiana*. However, the failure to be able to read or write does not disqualify a party from becoming a registered voter. Article 8, Section 1, *Louisiana Constitution*, 1921 *(Sub-section D)*. In addition to the literacy and character test the party registering must identify himself. Article 8, Section 1, Sub-sections— *Constitution of Louisiana*, 1921; *L. R. S. A.* 18:233. Therefore, it can be said that any person, even though he possesses qualifications as to age and residency, cannot by these two elements alone, become a voter or a qualified voter, unless he does the third and additional step, that is, **BECOME A QUALIFIED VOTER, BY COMPLETING**

THE REGISTRATION APPLICATION FORM, AND TEST AS OUTLINED BY THE CONSTITUTION AND STATUTES. Therefore, the most important step in becoming a voter is that of **MEETING THE REQUIREMENTS OF REGISTRATION.** In addition, to the requirements set out in the Constitution of this State, the Legislature of the State has, in its wisdom, supplemented constitutional provisions under the mandate given to it by the Constitution. *Constitution of Louisiana*, 1921, Article 8, Section 17.

In the Louisiana Registration Laws, an effort was made to make the process of voting as simple and as easy as possible. For instance, it is not necessary, at this time, to indicate party affiliation, in order to become a voter in a primary, although the failure to do so will prevent an individual in participating in a party primary. *Louisiana Revised Statutes Annotated*, Title 18:33; *Constitution of Louisiana*, 1921, Article 8, Section 4. A registered voter can apply for a duplicate certificate in the event a certificate is lost. *Louisiana Revised Statutes Annotated*, Title 18:582. The Louisiana Laws, insofar as requirements for registration are concerned, are liberal and the administration of the law is fair and equitable.

REGISTRAR OF VOTERS:

The Constitution of Louisiana sets up a Board called the Board of Registration which is composed of the Governor, Lt. Governor, and the Speaker of the House of Representatives and gives the power to any two members of the Board to remove a Registrar. *Louisiana State Constitution*, Article 8, Sub-section 18, of 1921. It can be said that the governing authority in a Parish can appoint

the Registrar of Voters, except for Orleans Parish, where the Governor has the authority to appoint the Registrar. *Louisiana Revised Statutes*, Title 18, Section 1. A Registrar holds his office during good behavior, however, is subject to removal by the Board of Registration. Article 8, Section 18, *Louisiana State Constitution*, 1921; *L. R. S. A.* 18:3. The Registrar must be a registered qualified voter of the Parish of which he is to perform his duties. *Louisiana Revised Statutes*, Title 18, Section 2. He must also qualify by taking a necessary oath of office and depositing the proper bond before the proper authority. *Louisiana Revised Statutes*, Title 18, Section 4. The Registrar is allowed to have certain deputies, clerks, and other people to assist him in his work. *Louisiana Revised Statutes Annotated*, Title 18, Sections 7 and 8. It is interesting to note here that the law of the State of Louisiana, insofar as registrars are concerned, is based on the theory of maintaining the Registrars of Voting, as best as possible away from political activities. A Registrar is prohibited from any political activity while acting as a Registrar and his employees are under the same mandate. *Louisiana Revised Statutes Annotated*, Title 18, Section 6:1.

RESPONSIBILITY OF THE REGISTRARS OF VOTERS:

It should be first brought to the attention that the Registrar of Voters operating under the Louisiana Laws is operating under mandatory provisions. Where the law itself imposes a duty upon the Registrar to do or to refrain from doing an act, such duty is to be considered mandatory. *Louisiana Revised Statutes Annotated*, Title 18, Section 196. In other words, the theory of the Louisiana Law is that the provision and actions are mandatory.

Louisiana Revised Statutes Annotated; Title 18, Sections 31, 35, 36, 37, 38, 39, 40, 41, 42, 71, 72, 73, 74, 91, 92, 93, 94, 111, 112, 113, 114, 115, 131, 132, 133, 134, 135, 136, 137, 138, 161, 162, 163, 164, 165, 166, 169, 170, 191, 196, 252, 337. *Louisiana State Constitution*, Article 8, Section 16; see *Ventre v. Ryder*, D. C.-La. (1956), 176 F. Supp. 90. Thus, the Registrars of the various Parishes, including the Registrar for the Parish of Washington, under every section of the law, which indicates to them what their duties and responsibilities are mandatorily required to act, and in no sense of speaking does the Registrar have any discretion in his capacity as Registrar. *Louisiana Revised Statutes Annotated*, Title 18, Section 196; *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (1908).

REGISTRATION SYSTEM:

There are two types of registration systems in the State of Louisiana. One is a system whereby registrants are required to register every certain number of years, and one is a system which is called permanent registration. Permanent registration is the system which is presently maintained in Washington Parish. (Tr. p. 58.) Under this system of registration (which exists in the Parish of Washington), once a party has become a "qualified registered voter", assuming that the party is not challenged from the registration rolls for cause (*Louisiana Revised Statutes Annotated*, Title 18, Sections 215, 132 and 133), or assuming that the person does not die or become a felon, or refuse to participate in election for a period of time (*Louisiana Revised Statutes Annotated*, Title 18, Section 42), the individual named shall continue upon the rolls as a qualified registered voter. In other

words, the permanent registration system is to eliminate the necessity of an individual having to register every number of years. The advantage of this system is to make, again, the procedure of voting as simple as possible for any individual, so that more people will participate in the activities of their State by casting their ballots. The important thing to point out, at this time, is that insofar as the registration system in Louisiana is concerned, in this particular case there is no conflict in systems such as permanent as opposed to temporary registration. Because, the **registration application blank** that a party must complete to be a "qualified registered voter" is the same under both systems. The same qualifications to become a registered voter pertains under both systems. Under permanent registrations it is important to note, at this time, that the Registrars of Voters of various Parishes are under a mandatory duty to keep their rolls current and up to date with only qualified voters. The Registrars are required to make periodical checks of their registration polls to accomplish this purpose. *Louisiana Revised Statutes Annotated*, Title 18, Section 165.

APPLICATION FOR REGISTRATION:

As a part of the procedure to become a registered voter in the State of Louisiana one must meet the conditions and requirements as outlined by the Constitution and the Statutes of the State. *Louisiana State Constitution*, 1921, Article 8. Section 1, Sub-paragraphs C, D and E, *et seq.* It will be noted at this time that in the Constitution there is the requirement as to character and literacy. There is also in the Constitution a form with respect to the application for registration *(Louisiana State Constitution*,

Article 8, Section 1 (C), and a form in the Louisiana Legislative Acts as to the application blank for registration (*Louisiana Revised Statutes Annotated*, Title 18, Section 31). Therefore, the Constitution and the Legislature have sanctioned the use of the application blank for registration. The point to consider, at this time, is that the issue before the Court, as the State of Louisiana understands the situation, is **not** that the application form for registration requirement under the Constitution and laws is unconstitutional. No question has been raised by the Government in any of its pleadings as to the unreasonableness of the form in question, or as to the questions asked in the application blank, or any other indication which would give the matter in question an **unconstitutionality basis.** Therefore, it can be assumed that there is no question but that the government believes that the application for registration as required by the Louisiana Constitution and Louisiana Statutes is constitutional in form and in fact. There is no question from the government as to the so-called literacy test which the Constitution of the State of Louisiana required, and its fulfillment of the said test by the completion of the application for registration which appears in both the Constitution and State laws. *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (1908); *Bishop v. Sherburne*, 122 La. 429, 47 So. 759; *State, ex rel. Woods, v. Theriot*, 124 La. 847, 50 So. 770 (1910); *Smith v. Dardenne*, 129 La. 835, 56 So. 905 (1911); *Darby v. Daniel*, 168 F. Supp. 170 (U. S. D. C.-S. D.-Mississippi) (Nov. 1958), p. 183; *Lassiter v. Taylor*, 152 F. Supp. 295 (U. S. D. C.-N. C. (1957), p. 297.

It can, therefore, be said that the ability of any individual to complete the application for registration.

complete and without error, or his ability to show that he is unable to read or write are the final steps and the very necessary steps to becoming what the State of Louisiana calls a "qualified registered voter". *Louisiana Revised Statutes*, Title 18, Sections 31, 32; *Louisiana State Constitution*, 1921, Article 8, Section 1 (b) and (c). This final step is the one which is absolutely necessary in order to become a registered voter of the State. The Registrars of the State are guided by the requirements under the Constitution and Statutes and as have been pointed out previously, these duties are mandatory. The importance of the application for registration can be found in the new permanent registration voter system, under which Washington Parish has been placed since May of 1958 (Tr. p. 40). The records which must be kept by the Registrar of Voters are as follows:

> A master record file, a precinct register and duplicate precinct register, and a closed and disqualified file. *Louisiana Revised Statutes Annotated*, Title 18, Section 235.

Under permanent registration, in addition to the steps outlined in the Constitution and Legislative Acts, one must complete one more step, that is, he must sign his application for registration in the precinct register and the duplicate precinct register. The Registrar then maintains the following files in his office:

> The master file, which contains the "original registration application *(Louisiana Revised Statutes*, Title 18, Section 235), which shows that under the permanent registration the application for registration again is a very important document and is

one which must be maintained by the Registrar of Voters. The Certificates of Registration or application for registration are filed in the Registrar's office alphabetically by surnames. *Louisiana Revised Statutes*, Title 18, Section 235, Paragraph 3.

The application for registration is not a document which is to be taken lightly as to its significance in Louisiana Law. There are no Louisiana Laws which discriminate against any individual based on his particular color, creed, religion or previous condition of servitude.

People who have been accepted by a Registrar as duly qualified voters, as long as they remain on the rolls as duly qualified voters, may participate in various elections, primary or general elections and, of course, are not subject to the removal, except for the condition that they may be challenged for specific reasons at the time and at the place that they cast their ballot. *Louisiana Revised Statutes Annotated*, Title 18, Section 352, for challenging under primary law, and Section 580, general election.

In addition to the fact that an individual may be challenged at the time he cast his ballot, the Louisiana Law has taken adequate measure to protect the rolls of registered voters from becoming cluttered up with illegally or wrongfully or fraudulently registered people. When a registration system is permanent, there must be some system set up in an effort to allow the machinery of either the law or the Courts to make an effort to keep the rolls in its most current position. The primary duty under a permanent registration system of maintaining the rolls is good order and keeping illegally registered

people off of same lies with the Registrars of Voters. *Louisiana Revised Statutes Annotated*, Title 18, Section 165; *Louisiana Revised Statutes Annotated*, Title 18, Sections 132 and 134.

THE SYSTEM OF "CHALLENGING":

If a Registrar of Voters for the State of Louisiana complied with the mandatory provisions of the laws, he would (under *Louisiana Revised Statutes Annotated*, Title 18, Sections 165 and 241) periodically conduct a survey of his rolls which would indicate to him whatever facts necessary to enable him to remove from the rolls those people who do not fit into the category of qualified registered voters. Several reasons are apparent as to why the Registrar is given this mandatory responsibility. It is possible that a person who is a Registrar will not perform his mandatory functions under the law and, therefore, a new Registrar has the power to be able to check the records of the Parish and determine the status of the rolls. However, the Louisiana law goes a step further in checking its public officials in its Registration Voters System. The State of Louisiana gives to individual bona fide registered voters an opportunity to call to the Registrar's attention the names of people who have been voting illegally or who have been fraudulently placed "upon the registration rolls". *Louisiana Revised Statutes Annotated*, Title 18, Sections 132, 133 and 245. Under this procedure any two bona fide registered voters of a Parish may sign an affidavit, signed and sworn in duplicate, and file same with the Registrar or his deputy, giving certain information which they tend to believe has made an individual "illegally registered". *Louisiana Revised Statutes Annotated*, Title 18, Sections 133 and 245.

It should be noted that the two sections of the law, heretofore referred to (*Louisiana Revised Statutes Annotated*, Title 18, Sections 133 and 245) are statutes whereby individuals are allowed to call to the attention of a Registrar facts about a registration which he may not know of his own knowledge. The operation of these two statutes bring us to the point of no return insofar as this problem is presented to the Court, and the Louisiana Supreme Court. It is necessary to point out the procedure used when a challenge is issued under Section 245 of Title 18, *Louisiana Revised Statutes Annotated.*

First, two bona fide registered voters make out a written affidavit in duplicate, signed before the Registrar or his deputy; in this affidavit they advise the authority that certain individuals are illegally registered or have lost their right to remain on the rolls.

Second, the Registrar "shall immediately" or in any event, within forty-eight hours, advise the people so found, of the facts indicated by the challengers.

Third, the affidavit alleging the defects in the registration together with a citation, is mailed to the individual at his registered address.

Fourth, the party in question is cited to appear before the Registrar or his deputy, within ten days from the date of mailing and then "prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters." (See *Smith v. Flournoy*, 115 So. (2d) 809.)

Fifth, the Registrar must publish a notice of the individuals by names, indicating their ward and precinct, not more than five days after mailing the notice or notification affidavit in question.

Sixth, failure of the individual, whose registration has been illegal to answer the affidavit and prove that he should remain on the roll, causes his name to be removed from the registration rolls.

Seventh, under the permanent registration system his name is then placed into a file designated as "closed and disqualified file" *(Louisiana Revised Statutes Annotated,* Title 18, Section 235 (3)). This file consists of the registration record of all registrants which have been disqualified for any reason. When a party has been disqualified, the Registrar moves the registrant's record from the master file and certificates of registration from the precinct register and places these records and certificates in a separate file, to be designated as "closed and disqualified files." These cards are filed alphabetically and before cancelling the said card, the Registrar marks in red ink "cancelled," the date and the reason for cancellation, and then affixes his signature. *(L. R. S. A.* 18:246.) That is the operation of the statute in question and this is the procedure contested:

1. That the individual petitioners were at one time classified as "duly qualified, registered voters" by a Registrar of Voters of the State of Louisiana.

2. Under a specific date petitioners were challenged in their position as to remaining duly qualified registered voters by the filing of an affidavit by the mailing of a citation, indicating specific reasons why their right to remain a registered voter on the rolls of Washington Parish had been questioned.

3. The reasons set out in the affidavits are clearly distinguishable in the application blank itself.

The individuals challenged have recourse by answering the citation and proving to the registrar upon the affidavit required that they are in truth and in fact, still a duly qualified voter. Thus, if the affidavit indicates that a registrant is no longer a legally registered person, because he misspelled a particular word, or figured his age wrong, etc., the challenged party may come in and disprove the affidavit. If they disprove same he is reinstated. (*Louisiana Revised Statutes Annotated*, Title 18, Section 240 (3)). Assuming, for the sake of argument, that a challenged individual appears either in person under the challenged requirements and attempts to disprove the affidavit and register and is refused the opportunity of becoming a registered voter, the person can file a mandamus suit against the Registrar, which suit is directed to a District Court of the State, is given preference over all other cases, before a jury of twelve, and without cost. (*Louisiana Constitution of 1921*, Article 8, Section 5; *Louisiana Revised Statutes Annotated*, Title 18, Section 138) and *Ballard v. Puleston*, 113 La. 235, 36 So. 951 (1904). Therefore, a party denied registration CAN APPLY to the local Courts for relief. Assuming, for the sake of argument, that in complying with the law in

question, and assuming that the individual has lost his case under the Constitutional provision, the individual can still become a member of the qualified voters of Louisiana by applying personally to the Registrar of Voters of the Parish, applying for registration as if he were a new applicant registering for the first time.

An individual who is denied what he believes is a right belonging to him of registration can adequately receive remedy through the vehicle of the State Courts.

The United States Government takes the position that the parties in question and other individuals have been challenged and sought to be removed from the registration rolls of Washington Parish, because of the one fact that the people involved were of a particular race. It is the contention of the Government that because **of that fact alone** they were removed from the rolls of registered voters under the challenges.

Inasmuch as the Government has alleged discrimination it behooves the Government to prove by a preponderance of the evidence that the sole and only reason the petitioners were removed was because of the fact that they were members of a particular race, and that there were no other reasons used to remove these individuals from the qualified voters role of Washington Parish.

The fallacy of the argument of the United States Government is in its admission in their allegation No. 10 (Tr. p. 3) that in truth and in fact the people who were challenged did have errors in their **application for registration.** However, the Government takes the position that these errors were minor errors and deficiencies, there-

fore, should be ignored; that the only reasons these people were not maintained on the rolls was because of the one fact that they were members of the Negro race.

If the Government's position is correct they have said in effect that the character and literacy test required under the Louisiana State Constitution is of no effect. Nothing could be further from the law. Interestingly, the Government has not attacked the application for registration form, nor any of the questions asked on the application for registration form. However, their conclusion that the mistakes made were minor, implies that the literacy test set up by the Constitution of this State for every individual is of no avail. This argument by the Government is of no moment under the present jurisprudence. *Guinn v. United States, supra.*

The Louisiana Supreme Court has, on a number of occasions, along with Federal Court, held that the constitutional test (literacy) ". . . was not intended as an idle form, it was the result of the most serious and protracted deliberation. . . ." *Bishop v. Sherburne*, 122 La. 430, 47 So. 759 (1908). In this case an applicant had filed a mandamus proceeding seeking to become a registered voter; having failed to complete his application for registration the Court had this to say at page 760:

> "Upon the case presented, it appears that the registration of relator was properly refused. The Constitutional test was not intended as an idle form, it was the result of the most serious and protracted deliberation, in the convention by which the Constitution was framed, and was intended by that body to be literally complied with, which is evi-

denced from the language and particularly the requirement of the article in which it was incorporated. The applicant "shall demonstrate" his ability to read and write, not by reading or writing anything that he may choose but by reading and filling in the blanks, in the prescribed form, 'ippissimis verbis' by the Constitution itself, the doing of which requires, not only the ability to read and write, but likewise intelligence sufficient to enable the applicant to compute, at least the number of years, months and days of his life. In the instant case, the applicant came into the office to register as one who could comply with these conditions, he made his application on another basis."

The same position is taken by the Court in *Smith v. Dardenne*, 129 La. 837, 56 So. 905 (1911); also *Trudeau v. Barnes*, 65 F. (2d) 563, (C. A. A., 5th) (1933); *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (S. Ct.) (1908); *Guinn v. United States*, *supra*; *Williams, et al., v. James H. McCulley*, 128 F. Supp. 987, (U. S. D. C., W. D. La.) (Jan. 1955).

The Supreme Court has, on a number of occasions, upheld the literacy tests in other states. *Lassiter v. Northampton Election Board*, 360 U. S. 45 (June, 1959); *Lassiter v. Taylor*, 152 F. Supp. 295.

The State of Louisiana has traced:

The registration laws of the State of Louisiana, which is the ultimate in determining whether or not a party has become a "duly qualified registered voter of the State." It has also shown the mandatory duties of

a Registrar, under either a permanent system or a temporary system of registration, and it has been shown that the system of law is set up to protect each and every individual, whether that individual be a public official or citizen.

There is nothing whatsoever in the laws which violates any of the prohibitions set out in Amendment Fifteen. The registration qualifications test, under the Constitution and Legislative Acts, is applied to all parties regardless of their race or color.

Any person, under the State law and under the Constitution, can take the same means to have any individual, whom he believes to be illegally registered, stricken from the rolls. (See Article 8, Section 5, *Louisiana Constitution*, second paragraph, and *Louisiana Revised Statutes*, Title 18, paragraphs 134 and 245.)

All qualified voters have an opportunity to seek removal from the rolls any illegally registered people; these challenges are open to all who are bona fide registered voters.

If the District Court's judgment is upheld an individual cannot, under any of the State laws, file a challenge against any other individual. The State and the State alone has the right, under the United States Constitution, to declare the qualifications of any individual in order for him to qualify as a registered voter. *Guinn v. United States*, 238 U. S. 347, 362. The only thing that the Fifteenth Amendment adds is that a person must not be disqualified **SIMPLY BECAUSE** he is of a particular race. The ultimate end, if this Court should uphold the

lower Court decision of issuing an injunction against the Registrar of Voters, is that once a person becomes a registered voter, nothing could be done to remove his name from the registration rolls. In effect, the entire challenging system, under the registration laws of the State of Louisiana, would be in jeopardy and would amount to the Federal Government taking over the realm of State's activity.

It is interesting to note that at this very same time the Congress of the United States is presently debating the removal of the State restrictions to voting insofar as poll tax requirements are concerned. There is no poll tax in Louisiana. *Constitution of Louisiana*, 1921, Article 8, Section 2. In this effort **even the Congress** of the United States believes that the realm involving the matter of poll tax is within the **sphere of State sovereignty**; and that the only way it can be removed would be through constitutional amendments voted on by each individual State. Therefore, can a Federal Court hold that it can set the requirements for the qualification of voters, whereas the Congress of the United States has declared that it cannot set qualifications for voting insofar as State matters are concerned?

This goes without saying that the Federal Court would want Registrars of Voters and challenging individuals never to possess the initiative to search the rolls and determine what people should be removed from same. It is submitted that the Federal Court and Government cannot take the position of controlling provocation of voters and cannot decide that there is, or ever was, any discrimination, under the evidence introduced in this matter.

For argumentive purposes, the mere fact that a thousand Negroes were challenged and only one white person challenged does not in itself indicate discrimination against an individual based on race or color alone if, **in fact,** the individual so challenged, does have an error or mistake in his application for registration.

In spite of the allegations glowingly made by the Government, and in view of the theory set out in Civil Rights Acts, and assuming for the sake of argument that this theory is to get qualified voters upon the roll, it is wise to look at the present facts and decide as to whether or not all the facts put together amount to discrimination based on race and color alone. The United States Government has indicated that it has shown discrimination based on race or color alone and at the same time admits that mistakes or errors were made in the application for registration.

It is very interesting to note, at this time, and is submitted to this Court to determine from the factual situation of the exact procedure and time element involved in the present matter. These are several facts which now exist in the present case. The United States Government, in and for the behalf of petitioners filed a suit under the Civil Rights Act of 1957. Thereafter, the matter was tried and submitted. A judgment was issued by the Federal District Court for the Eastern District under date of January 11, 1960. This matter was appealed to the Fifth Circuit Court of Appeals and then to this Honorable Court. Up until the **very day,** the **very minute,** as a

glance of the clock will indicate, that this matter is now being tried, very few, if any, petitioners have tried to get back on the rolls. (Tr. p. 53.) It is interesting to note that during the time that the suit was filed (June 29, 1960), over 200 days have transpired and during that time the State of Louisiana has held two very important Democratic primaries and at no time during this period have the people involved attempted any procedure whereby they could get back on the rolls as registered voters.

The procedure is simple and set out in the law in an effort to prohibit discriminatorily removing a man from the qualified registered rolls. The individuals so challenged have the administrative provisions under the Revised Statutes for becoming qualified voters. They have the privilege of filing a suit against the Registrar if the Registrar refuses to register them. And, of course, they have the right of completely reregistering again and becoming members of the voting society of the State. Therefore, there are three avenues left for the individuals to allow them to get back on the rolls. It is of no moment here for the Government to say that this puts an additional burden on these people solely because they are of a particular color. The Government knows that there is nothing further from the facts and the law in this case. Had there been **NO MISTAKES** on the application for registration, it could easily be argued that these people were disqualified simply because of the fact that they were of a particular color. However, these are not the facts in this case (readily admitted by the Government) when the Government admits in their allegation that they were in truth

and in fact defects but that these defects were of a minor nature. The Federal Court has set itself up to determine that if you forget to cross a "T" it is a minor mistake but if you let the "T" out it may be a major mistake. It seems that the Government's motion to stay the vacate order of the Fifth Circuit Court of Appeals with the theory that the individuals involved have to participate in a general election of April 19, 1960, in the State of Louisiana is without merit. It is with extreme interest that this matter be brought to the attention of the Court because, as this Supreme Court has ruled on its various cases in which is alleged in those one-party States as the State of Louisiana, that the primary elections are tantamount to a general election and the election of the individual to the seat that he seeks. The Democratic party in the State of Louisiana has already held two primaries in which these individuals were not participants. Nothing has been done by the individuals or by the Government to facilitate the matter of placing these people back on the rolls as registered voters.

Therefore, since registration qualifications are a matter of State action, and in Louisiana the application for registration is the intelligence test, no Federal Court can determine that the making of minor mistakes on the intelligence test can be ignored. Only the State of Louisiana can pass on the qualifications of registered voters.

The action of the Federal Government should, therefore, be dismissed.

IV.

The Acts of the Registrar of Voters for the Parish of Washington Are Mandatory Under Louisiana Law, Revised Statute, Title 18, Section 245, and in Complying with Said Statute Did Not Discriminate Against Any Individual Solely on the Basis of His Race, Color, or Creed, or Previous Condition of Servitude.

The United States Government, in allegation No. seven of their complaint, states:

> "It is made mandatory by said statute (Louisiana Revised Statutes Annotated, Title 18, Section 245) that, upon the filing of such affidavits, the Registrar shall notify . . .".

This statement by the Government in their pleadings shows that there is no discretion on the part of the Registrar. The Government readily admits that it is necessary, under the Louisiana Statute, that the Registrar **must act in a mandatory way.** *State, ex rel. Woods, v. Theriot, supra.* However, the District Court, in paragraph 4 (page 162 of the Transcript) comes to the conclusion that the defendant Registrar "in giving effect to the mass challenges . . . . achieved a discriminatory result in violation of **his duties** under the Fifteenth Amendment." This conclusion by the Court means that the Court has determined that the only basis for the removal of the individuals in Washington Parish, who are Negroes, was the **one** fact that they were Negroes. However, it misses the intent of the constitutional provisions and statutes quoted as to the authority in becoming a "qualified registered voter" in the Parish of Washington.

It would seem that this Court, in order to show violation of the Fifteenth Amendment, must find that the challenges which were issued to the Registrar, and upon which he acted under his mandatory duty under the law, were issued **solely** because and only on the fact that the parties so challenged were members of the Negro race. A reading of the record indicates that this did not occur. A mere reference to the registration application, issued and allegedly completed by the people named in the suit will on the face show mistakes.

On the face of the evidence introduced by the Government the petitioners concerned and people in a like situation did in truth, and in fact, and in law, have a mistake upon their application for registration.

The only duly constituted officer to serve in the position of accepting these challenges is the Registrar or his deputies. Individuals, while they have the right under both the Constitution and the legislative acts to proceed and call to the attention of the duly constituted officer the fact that there are illegally registered people on the rolls, the only **one** with authority **to issue** the challenges is the Registrar or his deputies. Here it should be pointed out, however, that under no circumstances does the challenging individual have the authority to remove anyone: in effect, **it is the challenged individuals themselves which cause their removal by their inactivity to answer the challenge.** Consequently, as a practical matter, the individual removes himself from the rolls. While the Registrar makes the final move, if the challenged individual has not appeared to remedy what is alleged to have been a defect. he merely resorts to such removal because of the inactivity of the individual involved.

While citing the mandatory duty of the Registrar the Government contends that the Registrar knew or should have known because of the number of persons challenged that the intent and purpose of the challenges were to remove only Negroes from the roll, and because **he knew of this intent** he participated in an action which had a discriminatory result and violated his duties under the Fifteenth Amendment. In other words the Government concluded that this was a conspiracy by the Registrar and individual citizens to remove the Negroes in question.

Of course the history of suits filed in Washington Parish, from what the record will reflect, indicates that this could be no further from the truth than in law, from the theory of the Government's suggestion, that there was discrimination on the basis of color in this matter. As the record will reflect, in 1950 a judgment was entered against the Registrar, decreeing that he should not refuse to register anyone because of their race or color. The Registrar for eight years participated with no legal action whatsoever. Then some individuals approached him and indicated that they were going to make a series of challenges of the people on the registration rolls.

Defendant Registrar sought, after a refusal to grant the challenges, a statement and expression of the position he should take under the Louisiana law. As the judgment will reflect from the record the Louisiana District Court stated that the Registrar had the mandatory duty to accept the challenges and not to question the validity of a challenge once the affidavit was given to him. Abiding by that judgment, the defendant

Registrar proceeded to receive the challenge, issued them, and then have the United States Government, under the Civil Rights Act, proceed against him. If there is any conspiracy in this particular action, then it surely cannot be said to be a conspiracy between the members of the State and others to effectuate the removal of the Negroes from the rolls.

The fallacy of the Government's argument is that they must **admit** that they were in truth and in fact errors upon or in the making of the application of the petitioners. But they take the position that the defects or deficiencies are **minor.** HOWEVER, THAT IS NOT THE QUESTION BEFORE THIS COURT. This Court cannot tell the State of Louisiana, in qualification as to voters, what is or what is not a minor mistake. The important thing here is that the Louisiana law does in truth and in fact give a right to call to the attention of the proper authorities the fact that a person is illegally registered upon the rolls.

There would be no question and no cause for this action if the application for registration contained no errors or mistakes. In that case there would be on the face of the mere challenge discrimination. But again these are not the facts in this case. The State asks, did the defendant Registrar have the responsibility, under the law, of maintaining the rolls in question up to date and correct? The State suggests that the answer should be "yes."

There is no evidence to show that the Registrar of Voters did not accept challenges against white people. Consequently it must be concluded that he administered

the law equal to all. And "Federal Courts . . . are not at liberty to impose on state and local authorities their conception of what constitutes proper administration of their offices, so long as there is no discrimination and the laws are equally administered." *Williams v. McCulley*, 128 F. Supp. 897, 899.

V.

The Judgment of the Federal District Court Is Erroneous and Contrary to the Law and the Evidence Presented.

As will be shown by the Transcript of Record the judgment of the District Court, beginning at page 158, decrees injunctive relief to petitioners or people situated similarly and endeavors to enjoin the Registrar of Voters for the Parish of Washington from entertaining challenges from individuals wherein the challenges have for their purpose the discrimination against an individual based upon his race, color or creed and in contravention of the Fifteenth Amendment of the Constitution of the United States.

The State of Louisiana filed a notice of appeal and a request for a stay order from the Fifth Circuit Court of Appeals, because of the extreme importance of the ruling of the District Court of the United States. And because the Registrar is of the firm belief that the District Judge has erroneously decided this matter contrary to the law and the evidence presented to the Court.

To determine the inability of the District Court to grasp the significance of the facts and evidence, it is necessary to search the judgment of the District Court,

and indicate how unlegalistic, and how unworkable the judgment as issued by the District Court appears to the Registrar. In essence, it can be said that the judgment is against the Registrar of Voters in and for the Parish of Washington enjoining him from doing various things:

(a) From giving legal effects to approximately 1,377 challenges. (See Transcript of Record 158 for complete text.)

(b) From permitting the names of any of the approximately 1,377 persons challenged to remain off the rolls.

(c) From doing anything hereafter on challenges filed in the Registrar's office which have "for their purpose or effect discrimination based on race or color."

Then the judgment orders that the Registrar advise the Court of compliance as stated in its paragraph 3(b). Then the District Court orders that the Registrar "keep and maintain, from and after February 1, 1960, a tabulation showing the number of registrants of each race whose right to remain on the registration rolls of Washington Parish is challenged. If, at the end of any three month period thereafter, more than five per cent of the registrant of any one race shall have been challenged, he shall within ten days thereafter, submit to this Court a detailed report in writing concerning such challenges, giving the bases thereof, and indicating whether the same or similar bases of challenges appear in the record of other registrants."

In its conclusion of fact the Lower Court, in number 15, (page 161 of the Transcript), concludes that the

Negroes herein were deprived of being a qualified voter solely because of their race or color. However, this is in contradiction with his conclusion (Tr. p. 160), No. 12, wherein the Court admits the defects of deficiencies in the registration cards, such as misspelling, deviation from printed instructions, failure to compute age with exact preciseness, and illegible handwriting. The Lower Court then concludes that it will disregard these mistakes and deficiencies in the applications for registration and will not even entertain the fact that they existed, and indicates that the people involved were removed **solely** because they were members of the Negro race. It is questionable as to how the District Court can (1) assume that the people involved were discriminated against solely because of their race, and yet at the same time acknowledge that there were errors or mistakes on the applications. The Court did not hold, nor could they hold, that the application for registration was in a form which is unreasonable, as a means for an intelligence test. The Court did not take into account that the problem involved is one touching the entire registration system in the State of Louisiana.

There are several interesting challenges brought out by the judgment of the District Court:

(1) That the District Court has, without any Constitutional provision before it, indirectly declared unconstitutional, not only one law, but the entire registration system of the State of Louisiana. Because, if the District Court is right (which is denied) and the mistakes made in the application are to be disregarded, it has held indirectly that the application form cannot be used as a form of intelligence test. This

would be contrary to the holding of the State Supreme Court of Louisiana. *Bishop v. Sherburne, supra.* This holding would also mean in effect that no one can challenge a Negro applicant who has such a defect in his registration application — as misspelling — failure to compute the date of his birth—deviations from printed instructions and illegible handwritings. Therefore, it is conceivable that any Negro who attempts to register and makes any of the above errors cannot, under this judgment, be refused registration.

(3) Under the District Court's judgment, a qualified voter is a person who is over the age of 21, meets the residency requirements and who applies for registration and who gets a registration application and merely files it with the Registrar. If the registrant misspells his own name, computes his age wrongly, or has a handwriting which could not be read, **he will still become a qualified registered voter.**

The judgment of the District Court insofar as it ignores the mistakes made on the card, by passing them over and calling them defects or deficiencies of a minor nature, is completely without merit and contrary to the holding of this Honorable Court, and the Supreme Court of the State of Louisiana. In effect, therefore, the judgment is wrong, because the District Court has indirectly overruled the holdings that literacy tests are valid. In effect, the District Court has overruled the requirement of completing the registration application. It is possible

under this judgment, that a blank registration card, which mentions only that the applicant for registration is a Negro, and containing his name, would not be subject to challenge, even if a mistake is patent on the face.

The Federal Court then assumes that it can judge the qualification of what it calls "approximately 1377 persons" who have been removed from the rolls under a challenging system, approximately from the date November 1, 1958, through July 1, 1959. The Court overlooked the fact that there is not **ONE IOTA** of evidence in connection with the total challenges of 1377 people, but only evidence dealing with 155 number of persons. The State of Louisiana wonders if the Court would want the Registrar of Voters to place back on the rolls of qualified voters any of the above individuals who may have had major errors in their registration forms. There is no evidence as to all of the 1377 individuals, they are not named—and not identified. There is no way of knowing whether the 1377 other people have died,—removed themselves from the State,—become incapacitated by committing a felony—or become insane or interdicted,—or in a charitable institution within the State of Louisiana,—or have received some disability through sickness or disease, which will require that they do something in addition to just merely being established as a registered voter by removing a card from one file into another. *Louisiana Revised Statutes Annotated*, Title 18, Section 42; *Louisiana State Constitution*, Article 8, Section 6.

It is submitted that the District Court has gone so far in their judgment that it is possible for anyone who only places his signature on an application for registration and indicated his race to become a registered voter.

It is inconceivable, after searching the record, how under the law and evidence presented the District Court arrived at the proposition that these parties were removed from the rolls of registered voters solely because they were of a particular color. Assuming, therefore, only for the sake of argument, that the Court had some bases for its judgment, under its holding, it would preclude anyone from challenging a person of the colored race. Under the judgment of the District Court, a Registrar would be precluded from challenging, or refusing to register a party even if a person made a mistake in his registration application.

In effect, the Court has stated to the Registrar of Voters for Washington Parish: YOU ARE NOT TO CHALLENGE ANY NEGRO WHO MAKES A MISTAKE IN HIS APPLICATION FOR REGISTRATION. It does not lend to the judgment for the District Court to say that these were "minor" mistakes because it then becomes a necessity for a Court of competent jurisdiction to determine what is minor and what is major.

The decree also effects registration of other people. Assuming that a white person comes into the registration office and miscalculates his age: Would the Registrar be able to (1) refuse to register him because of this mistake, or (2) refuse to accept any challenges later assuming that he was allowed to register with the mistake in the application, (3) and if he did issue a challenge since the Registrar is precluded from issuing a challenge against a Negro it would follow that the white person could come into Federal Courts, under the auspices of the United States Government, and seek an action against the Registrar, and assuming that the Court will follow the theory in the judgment by the District Court, the Registrar would then be

precluded from accepting the challenge of the individual white person because then he would be discriminating against a person in violation of the Fifteenth Amendment, based on his race or color.

The whole significant calculation therefore being that the Federal Court has herewith stated: That in Louisiana there shall be no challenging of any individual. While this matter is only affecting one parish within the State, at this time, it is easy to assume that if this broad judgment remains in existence every Parish within the State would be similarly effected.

The Federal Court, herein, has not really understood the facts of this case, and other cases involving discrimination in election suits. In the normally indicated election suits, the point at issue is usually some action taken by some person against a person who IS ALREADY A DULY QUALIFIED REGISTERED VOTER. In this case, however, those rights have not crystalized as yet, because the party involved has not become a qualified voter, or a voter who is "otherwise qualified by law". It is of no import to indicate that these people were at one time members of the qualified voting society, because they were not members in fact once they were challenged and removed from the record and rolls.

IN CONCLUSION.

Inasmuch as the persons on whose behalf the United States lodged this complaint have disqualified themselves under valid Louisiana registration laws by having failed to observe the conditions of registration, or by failing to correctly fill out their registration cards, or by not passing the literacy test, it should be declared that the Federal

Courts have no jurisdiction over them under the Civil Rights Act of 1957.

The Civil Rights Act of 1957, 42 U. S. C. 1971, F. L. 85-315, 71 Stat. 634, is too broad in its scope in allowing action by the United States against private persons and should be declared unconstitutional.

There has been no discrimination by the Defendant Registrar, Curtis M. Thomas, based on an abridgment of any rights of any individual, and it should be so declared.

The judgment of the U. S. District Court was erroneous in law and in fact and should be reversed.

CONCLUSION.

It is therefore submitted that this Court, insofar as Curtis M. Thomas, Registrar of Voters, is concerned, should dismiss the petition of the United States Attorney General and that the injunction or any other order issued by the District Court be recalled, set aside and vacated.

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PROOF OF SERVICE.

This is to certify that I, Jack P. F. Gremillion, Attorney General of the State of Louisiana and a member of the bar of the United States Supreme Court, did this day of February, 1960, serve copies of the above and foregoing brief on appellants by placing same in the United States mail, air mail postage prepaid, addressed to the Solicitor General, Department of Justice, Washington 25, D. C.,

JACK P. F. GREMILLION

New Orleans, Louisiana.

APPENDIX.

LOUISIANA STATE CONSTITUTION 1921

1. Right to vote; qualifications of electors; registration

Section 1. **Right to vote.** After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution.

Citizenship and age. Every citizen of this State and of the United States, native born or naturalized, not less than twenty-one years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in the State by the people:

(a) Residence. He shall have been an actual bona fide resident of the state for one year, of the parish one year, of the municipality in municipal elections four months, and of the precinct, in which he offers to vote, three months next preceding the election; provided, that removal from one precinct to another in the same parish shall not operate to deprive any person of the right to vote in the precinct from which he has removed until three months after such removal; provided, that removal from one parish to another shall not deprive any person of the right to vote in the parish from which he has removed for district officers to be elected in a district which includes the parish to which he has removed, or for state officers, whether the parish be in the same district or not, until he shall have acquired the right to vote for such officers in the parish to which he has removed. (This paragraph amended by Acts 1956, No. 601, adopted November 6, 1956.)

(b) Registration. He shall be, at the time he offers to vote, legally enrolled as a registered voter on his own personal application, in accordance with the provisions of this Constitution, and the laws enacted thereunder.

(c) Character and literacy. He shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government. He shall be able to read and write, and shall demonstrate his ability to do so when he applies for registration by making, under oath, administered by the registration officer or his deputy, written application therefor, in the English language, or his mother tongue, which application shall contain the essential facts necessary to show that he is entitled to register and vote, and shall be entirely written, dated, and signed by him, except that he may date, fill out, and sign the blank application for registration hereinafter provided for, and, in either case, in the presence of the registration officers or his deputy, without assistance or suggestion from any person or any memorandum whatever, other than the form of application hereinafter set forth; provided, however, that, if the applicant be unable to write his application in the English language, he shall have the right, if he so demands, to write the same in his mother tongue from the dictation of an interpreter; and, if the applicant is unable to write his application by reason of physical disability, the same shall be written at his dictation by the registration officer or his deputy, upon his oath of such disability.

Until and unless otherwise provided by law, the application for registration above provided for, shall be a copy of the following form, with the proper names

dates and numbers substituted for the blanks appearing therein, to-wit:

I am a citizen of the State of Louisiana. My name is Mr. , Mrs. , Miss . I was born in the State (or country) of , Parish (or county) of , on the day of , in the year . I am now years, months and days of age. I have resided in this State since , in this parish since , and in precinct No. , in Ward No. , since , and I am not disfranchised by any provision of the Constitution of this State.

Said applicant shall also be able to read any clause in this Constitution, or the Constitution of the United States, and give a reasonable interpretation thereof.

(d) Character and understanding. If he is not able to read or write, then he shall be entitled to register if he shall be a person of good character and reputation, attached to the principles of the Constitution of the United States and of the State of Louisiana; and shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar, and he must be well disposed to the good order and happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government.

(e) Identity. He must in all cases be able to establish that he is the identical person whom he represents himself to be when applying for registration, and when presenting himself at the polls for the purpose of voting in any election or primary election.

§ 2. Poll tax or registration

Section 2. (As amended Acts 1940, No. 374.) The right to vote at any election shall not be affected by any requirement for payment of a poll tax or for registration in a poll book in any form.

§ 3. Taxpayers as voters; qualifications; proxy voting

Section 3. (As amended Acts 1940, No. 374.) Upon all questions submitted to the taxpayers, as such, of any municipal or other political subdivision of this State, the qualifications of all such taxpayers as voters shall be those of age, residence and registration in the books of the Registrar of Voters, prescribed by this Constitution, without regard to sex, and there shall be no voting by proxy.

§ 4. Primary elections; conventions; fairness; qualifications of voters and delegates

Section 4. The Legislature shall enact laws to secure fairness in party primary elections, conventions, or other methods of naming party candidates. No person shall vote at any primary election or in any convention or other political assembly held for the purpose of nominating any candidate for public office, unless he is at the time a registered voter, and have such other and additional qualifications as may be prescribed by the party of which candidates for public office are to be nominated. And in all political conventions in this State the apportionment of representation shall be on the basis of population.

No person shall be chosen as a delegate by any political party in this State to represent such party in any

convention, local, State, or national, unless such delegate is a duly qualified elector under the provisions of this Constitution.

§ 5. Denial of registration; remedy; illegal registration; removal of names; prosecution

Section 5. Any person possessing the qualifications for voting prescribed by this Constitution, who may be denied registration, shall have the right to apply for relief to the district court having jurisdiction of civil causes for the parish in which he offers to register. Said court shall then try the cause, giving it preference over all other cases, before a jury of twelve, nine of whom must concur to render a verdict. This verdict shall be a final determination of the cause. The trial court may, however, grant one new trial by jury. In no cases shall any appeal lie or any other court exercise the right of review.

Any duly qualified voter of this State shall have the right to apply to the district court to have stricken off any names illegally placed or standing on the registration rolls of any parish within the jurisdiction of said court; such application shall be tried by preference before a jury of twelve, nine of whom must concur to find a verdict, and no appeal or right of review shall be granted to any party to said cause, except the party whose name is stricken from the registration rolls; this appeal to be returnable to the court of appeal having jurisdiction of appeals from such parish. The finding of said court of appeal shall be final, and the same shall not be reviewed by any other court. Such application and appeals herein above provided for shall be without cost.

The Legislature shall provide for the prosecution of all persons charged with illegal or fraudulent registration or voting or any other crime or offense against the registration, or election, or primary election, laws.

§ 6. Disqualification from voting or holding office

Section 6. (As amended Acts 1946, No. 388.) The following persons shall not be permitted to register, vote or hold office or appointment of honor, trust, or profit in this State, to-wit: Those who have been convicted of any crime which may be punishable by imprisonment in the penitentiary, and not afterwards pardoned with express restoration of franchise; those who are inmates of any charitable institution, except the Soldiers' Home; those actually confined in any public prison; all interdicted persons, and all persons notoriously insane or idiotic, whether interdicted or not.

The provisions of this Section concerning the right to register and vote shall not apply to inmates of the United States Marine Hospital No. 188 at Carville.

§ 16. Close of registration before election; transfers; new voters; changes of address in Orleans parish between first and second primaries

Section 16. (As amended Acts 1954, No. 766.) Electors shall not be registered within thirty days next preceding any election at which they may offer to vote, but application to the courts, and appeals, provided for

in this Constitution, may be heard and determined and revisions and transfer from precinct to precinct in the same parish may take place at any time prior to the election and no person, who in respect to age and residence would become entitled to vote within the said thirty days, shall be excluded from registration on account of his want of such qualifications at the time of his application for registration; provided that, in the Parish of Orleans the registrar is prohibited from making changes of addresses between the first primary and the second primary.

§ 17. Registration

Section 17. The Legislature shall provide for the registration of voters throughout the State.

§ 18. Registrars of voters; board of registration

Section 18. There shall be a registrar of voters for the parish of Orleans, who shall be appointed by the Governor, and one for each parish in the State, who shall be appointed by the police jury or other governing authority of such parish.

The Governor shall issue a commission to each registrar who shall thereupon make such bond, subscribe to such oath, and receive such compensation as the Legislature may prescribe; provided, that the State and the parish shall each pay one-half of such compensation.

The Governor, Lieutenant-Governor, and Speaker of the House of Representatives shall compose the Board

of Registration and any two members of same shall have power to remove, at will, any registrar in this State.

The first Registrar in each parish shall be appointed on or before December 15, 1921, and a new and complete registration shall be had under this Constitution in every parish beginning January 2nd, 1922.

Should a Registrar be not appointed by December 15, 1921, or any subsequent vacancy be not filled, within thirty days after its occurrence, by the above constituted authority, a majority of the Board of Registration shall appoint and the Governor shall commission a Registrar of Voters in each parish which has none.

No Registrar of Voters shall be elected or appointed to any other office within twelve months after vacating that of Registrar.

No other officer or person shall exercise any of the powers or duties of the Registrar of Voters after December 15th, 1921; provided, this shall not be construed to forbid the Legislature to authorize the appointment, by the Registrar, of deputy registrars.

§ 20. Right to serve as commissioner at polls

Section 20. The right of any person, who is a qualified voter, to serve as a commissioner at the polls in any election in this State shall not be abridged, and the fact that he so served shall not disqualify him from holding any position by election or appointment, whether State, municipal or other position.

LOUISIANA REVISED STATUTES TITLE 18

PART I. REGISTRARS AND DEPUTY REGISTRARS OF VOTERS

1. Registrar for each parish; appointment; tenure of incumbents; books and records; commission; bond and oath

A registrar of voters for the Parish of Orleans shall be appointed by the governor, by and with the advice and consent of the senate. One registrar for each of the other parishes of the state shall be appointed by the governing authority of the parish.

If any vacancy is not filled within thirty days after its occurrence by the above constituted authorities, a majority of the board of registration shall appoint, and the governor shall commission, a registrar in each parish in which there is none.

The governor shall issue a commission to each registrar, who shall thereupon make such bond, subscribe to such oath, and receive such compensation as is prescribed in this Chapter.

2. Qualification of registrars

Registrars shall be qualified voters of the parish in which they are to perform their duties and shall at all times during their incumbency be so qualified.

3. Tenure; removal from office; may not be own immediate successor

Registrars shall hold office during good behavior; provided that a majority of the board of registration may

remove at will any registrar. No registrar who has been removed from office may be reappointed as his own immediate successor.

§ 4. Qualification; date; duplicate oath; bond; approval of bond

All registrars shall qualify within thirty days from the date of their respective commissions, by filing duplicate oaths of office with the secretary of state and with the state auditor, and by filing a bond with security, with the state auditor for the faithful performance of the duties required of them, and for the payment of such damages as may be sustained by their failure to discharge their duties. The bond, except in the Parish of Orleans, shall be of five hundred dollars, in favor of the governor. The sureties on the bond shall be examined and approved by the judge of the district court in the respective parish and by the presiding judge of the civil district court in the Parish of Orleans. In the Parish of Orleans the bond, similarly conditioned, shall be of five thousand dollars, and shall be examined and approved by the presiding judge of the civil district court. Before beginning the performance of his duties, each registrar shall subscribe to the following:

"I, ..., do solemnly swear (or affirm) that I will support the constitution and the laws of Louisiana and that I will discharge and perform faithfully and impartially the duties incumbent upon me as registrar of voters for the Parish of , Louisiana, according to the best of my ability and understanding. So help me God."

§ 6.1 Political activities prohibited

No registrar of voters, deputy registrar, clerk or other employee of any registrar of voters shall, while holding office

(1) Directly or indirectly pay or promise to pay any assessment, subscription or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution, nor shall any person solicit any such assessment, subscription or contribution of any employee in the classified service.

(2) Be a member of any national, state, or local committee of a political party, or an officer or member of any faction, political club or organization, or a candidate for nomination or election to any public office, or make any political speech or public political statement in behalf of any candidate, faction or party as a part of any political campaign for the nomination or election of public officers, or take part in the management or affairs of any political faction or party or in any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner at the polls in any election, and to cast his vote for whom he pleases. Added Acts, 1952, No. 334, Section 1.

§ 7. Removal of deputies, clerks, or employees; oaths; responsibility for acts or omissions

Unless otherwise provided by law, deputies, clerks, and employees appointed under this Part may be removed at will by the registrars appointing them. They shall be sworn by the registrars to the faithful performance of

their duties. The registrars are responsible for the acts, omissions, and faults of the deputies and employees employed by them.

§ 8. Deputy acting for registrar; administration of oaths

For the purposes of carrying out the provisions of the Constitution and of this Chapter, any deputy registrar provided for in this Chapter, when so authorized by the registrar, may act for and in the name and stead of any registrar by whom he is appointed.

Any registrar or deputy registrar may administer any oath required by this Chapter.

§ 31. Citizenship and residence requirements; age; character and education

Every citizen of the United States and of Louisiana, native born or naturalized, not less than twenty-one years of age who possesses the following qualifications, and who has complied with the provisions of this Chapter, shall be eligible for registration as a voter:

(1) He shall have been an actual bona fide resident of the state for two years, of the parish for one year, and of the municipality in municipal elections four months, and of the precinct in which he offers to register as a voter, three months next preceding any election.

(2) He shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government.

(3) Unless the applicant qualifies under the provisions of R.S. 18:36 he shall be able to read and write

and shall demonstrate his ability to do so when he applies for registration by making under oath administered by the registrar or his deputy written application thereof in the English language or in his mother tongue. This application shall contain the essential facts necessary to show that he is entitled to register, and shall be entirely written, dated, and signed by him, except that he may date, fill out, and sign the blank application for registration in the presence of the registrar or his deputy, without assistance or suggestions from any person or any memorandum whatever, other than the form of the application itself. If the applicant is unable to write his application in the English language, he shall have the right, if he so demands, to write it in his mother tongue from the dictation of an interpreter.

If the applicant is unable to write his application by reason of physical disability, it may be written at his dictation by the registrar or his deputy, upon the applicant taking oath before that officer of his disability or of his inability to write it in the English language.

(4) If the applicant is able to sign his name, he shall be required to do so; if not, he shall sign with his mark, authenticated by the registrar or deputy registrar, who shall then read the application to him, if necessary through an interpreter. The applicant, whether signing individually or by a mark, shall make affidavit to the truth of the fact therein stated.

(5) Whenever an applicant is unable to write his application by reason of physical disability or inability to write the English language as above set forth, he shall sign, or make his mark in the presence of witnesses to a

written affidavit stating the nature and extent of his physical disability or inability to write the English language which shall be signed individually if he be able to sign or by mark in the presence of two witnesses if he be unable to sign. No registrar or deputy registrar shall register any applicant under the provisions of this Section unless the applicant brings with him two qualified electors of the precinct in which he resides to sign written affidavits attesting the truth of the facts set forth in the application form LRIA and accompanying affidavit of physical disability, or inability to write the English language. A notation of the signing of the affidavit provided for in this Section shall be made on both the card of the applicant and the cards of the elector signing the affidavit under "Remarks". It shall be a violation of this Title for any elector to sign the affidavit to the application of more than two persons in any two year period.' Added Acts 1952, No. 498, § 1.

§ 32. Application for registration; form

The application blank for registration provided for in R.S. 18:31 shall be a copy of the following form:

"I am a citizen of the United States and of the State of Louisiana. My name is Mr. , Mrs. , Miss . I was born in the state (or country) of , Parish (or county) of , on the day of , in the year . I am now years, months, and days of age. I have resided in Louisiana since . in this parish since , and in Precinct No. , in Ward No. of this parish continuously since . I am not disfranchised by any

provisions of the constitution of this state. The name of the householder at my present address is . My occupation is . My color is . My sex is . I am not now registered as a voter in any other ward or precinct of this state, except . My last registration was in Ward , Precinct , Parish . I am now affiliated with the Party

Signature

Sworn to and subscribed before me:

(Deputy) Registrar."

The blank shall also be provided with an additional space in a form convenient for the notation thereon of:

(1) Changes of address of the applicant within the parish, as provided in this Chapter,

(2) Changes of name of the applicant as hereinafter provided in this Chapter and

(3) Remarks.

§ 33. Party affiliation; blank space not required to be filled; voting in primary; change in party affiliation

The applicant need not fill the blank space in the form required in R.S. 18:32 relating to party affiliation in order to be registered. Failure to do so, however, renders it unlawful for him to vote in any primary of any political party, so long as he has not declared his party affiliation.

However, any person may change his party affiliation by applying to the registrar, requesting in writing that the change be made. The registrar, upon such request, shall note the political party designated by the registrant in the proper column of the precinct register. Such change of affiliation in his registration does not permit the registrant to vote in any primary held by the political party to which he has changed his affiliation within six months of the change. During this period he may not vote in any primary held by the political party which he has renounced and abandoned.

Where a registrant has registered without declaration of party affiliation and afterwards desires to affiliate with some party, he shall cause the registrar to enter the party he selects in the proper column of the precinct register, by making written application to him to do so. The designation of party affiliation, in accordance with this paragraph renders the registrant eligible to vote in the party primary next following the designation. The registrar shall note in the precinct register the date of the change of party affiliation. As amended Acts 1952, No. 330, § 1.

§ 35. Ability to read and interpret constitution

Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof.

§ 36. Inability of registrant to read or write; good character and reputation

If the registrant cannot read or write, he may register if he is a person of good character and reputation,

attached to the principles of the Constitution of the United States and of the State of Louisiana, and understands and can give a reasonable interpretation of any section of either constitution when read to him by the registrar or his deputy. He shall be well disposed to the good order and happiness of the State of Louisiana and of the United States and shall understand the duties and obligations of citizenship under a republican form of government. In such case the registrar or his deputy shall fill out at the dictation of the applicant the facts set forth in the blank application, which, when completed, shall then be read to him, and to which the applicant shall sign his name if able to do so, otherwise shall sign his mark, attested by the registrar or his deputy, and shall make affidavit to the truth of the facts therein set forth.

§ 37. Establishment of identity

The applicant shall in all cases be able to establish that he is the identical person whom he represents himself to be when applying for registration. If the registrar has good reason to believe that he is not the same person, he may require the applicant to produce two credible registered voters of his precinct to make oath to that effect.

§ 38. Foreign born applicants; proof of naturalization

An applicant of foreign birth shall in addition to the proof required by the provisions of this Chapter prove that he has been naturalized in conformity with the laws of the United States. As evidence thereof he shall produce, if he has never previously registered in the parish a certificate of naturalization, or a certified copy thereof, under the seal of the court in which the naturalization

took place, duly attested by the clerk of that court, and shall prove by affidavit of two qualified electors of his election precinct that he is the person named in the certificate and the person to whom it was issued.

If the foreign born applicant claims to be a naturalized citizen by reason of the naturalization of a parent or spouse in accordance with the laws of the United States, he shall, if he has not been previously registered in the parish, produce to the registrar the certificate of naturalization of the person, or a certified copy thereof, duly attested by the clerk of court in which the naturalization was had, together with the affidavit of two qualified electors of his election precinct that he is the person entitled to the privileges of naturalization under the certificate.

§ 39. Issuance of certificate of registration

After an applicant has fulfilled the requirements of the constitution and of this Chapter, and after the registrar has caused the precinct register to be signed by the applicant in the manner herein provided, he shall issue to the applicant a certificate of registration in the form provided in this Chapter, noting on the registrant's application the number of the certificate issued to him. However, in the Parish of Orleans the certificate of registration shall be sent by the registrar through the United States mails to the registrant at the place of residence designated.

§ 40. Personal appearance of applicant required

Every applicant shall appear personally before the registrar or his deputy at a designated place of registra-

tion and comply with the provisions of this Chapter. No applicant shall be otherwise registered by the registrar, or shall be allowed to register at any other place than permitted in this Chapter.

41. Change of name; affidavit; endorsement on registration certificate

A woman registered under the provisions of this Chapter who subsequently, by virtue of marriage or remarriage, changes her name, or any person who changes his name by virtue of a judgment of a competent court in accordance with the laws of this state shall, in order to remain a legal registrant, file with the registrar an affidavit setting forth the pertinent facts concerning the change of name. The registrar shall note on the original application and on the precinct register, in the "Remarks" blank provided therefor, the change of name, and shall endorse the change upon the registration certificate previously issued to the registrant, over the signature of the registrar or his deputy.

42. Ineligible persons

The following persons shall not be permitted to register or vote:

(1) Those who have been convicted of any crime punishable by imprisonment in the penitentiary, and have not afterwards been pardoned with the express restoration of the franchise;

(2) Those who are inmates of any charitable institution, except the Soldiers' Home and the United States Marine Hospital at Carville;

(3) Those actually confined in any public prison;

(4) All interdicted persons;

(5) All persons notoriously insane or idiotic, whether interdicted or not;

(6) Deserters from the military service of the United States or from the militia of the State of Louisiana, when called forth by the governor or, in time of invasion, insurrection, or rebellion, by the President of the United States, until they have returned to the command from which they deserted, made good the time lost in desertion, and served out the term of their original enlistment; and

(7) Persons dishonorably discharged from the Louisiana National Guard or from the military service of the United States, until reinstated.

§ 71. Parish of Orleans; office and office hours; Algiers office

A. In the parish of Orleans the registrar's office shall be on the ground floor of some building in the central business district of the city of New Orleans, as equally accessible to voters in all parts of the city as possible. All acts required by this Chapter for registration shall be done only in the office of the registrar.

In the parish of Orleans the registrar shall keep his office open daily, Sundays and legal holidays excepted, from 9:00 A.M. until 4:00 P.M. He shall, in addition, keep office open until 6:00 P.M. on one day of each week, to be specified in advance and publicly announced. For thirty days preceding the time for closing of the registra-

tions before an election, the office shall be kept open from 9:00 A.M. until 1:00 P.M. and from 2:00 P.M. until 8:00 P.M.

B. In the parish of Orleans the registrar shall maintain permanent office in the fifteenth ward of the city of New Orleans for the registration of voters. The city of New Orleans shall make an office available, without cost to the state, in the courthouse at Algiers, now housing the recorder's court of the fifteenth ward, on the ground floor of said building. This office shall be kept open on Wednesday, Thursday, Friday and Saturday of each week, legal holidays excepted, from 9:00 A.M. until 4:00 P.M. In addition, the registrar shall keep this office open until 6:00 on one of the above days, to be specified in advance and publicly announced. As amended Acts 1952, No. 206, § 1.

§ 72. Location of office at parish seat; office hours

In parishes other than the parish of Orleans the principal office of the registrar shall be in some suitable and proper location at the parish seat, to be designated by the governing authority of the parish.

In all such parishes containing municipalities of twelve thousand or over, the registrar or his assistant shall keep his office open daily, Sundays and legal holidays excepted, from 9:00 A.M. until 1:00 P.M. and 2:00 P.M. until 6:00 P.M. In all other parishes he or his assistant shall keep his office open for 40 hours of each week, including a Saturday, until the registration equals 90 per cent of the total previous registration, and after the registration exceeds 90 per cent of the total previous registra-

tion he or his assistant shall keep his office open three days, including a Saturday of each week. During a period of thirty days immediately preceding the closing of the registration prior to any general, special, or primary election, he or his assistant shall keep his office open daily, Sundays and legal holidays excepted. The office hours in any event shall be from 9:00 A.M. until 1:00 P.M. and from 2:00 P.M. until 6:00 P.M. It shall be lawful to register voters on Sundays. As amended Acts 1950, No. 15, § 3.

§ 73. Office on boat or water craft prohibited; penalty registration other than at office; notice; office at or near polling places; publication of list of places for registration; offices in municipalities; traveling expenses; time for registering

A. No registrar shall open his office on a boat or water craft. He shall remain in his office on the days and at the periods fixed by this Chapter, and such other days as are required by the parish governing authority, except when registering voters at other points in the parish, under the circumstances hereafter in this Section provided, and shall at no time go to unusual places under the pretense of affording an opportunity to voters to register. He shall remain in each appointed place during the full period named in a public notice, and shall not attend places to register voters of which he has not given notice, as required by this Chapter.

Whoever violates this prohibition shall be imprisoned for not less than sixty days nor more than six months.

B. In all parishes other than the parishes of Orleans, East Baton Rouge, and DeSoto, the registrar, in every year in which a general election is held or a primary election is held for state officers or Representatives to Congress may, seventy days before the closing of the registration, establish his office for at least one day at or near each polling place. Each year in which a municipal election is held he may, prior to the closing of registration, thirty days before the municipal primary, establish his office for at least one day in each municipality in the parish. However, he shall, during the last thirty days of the period, Sundays and legal holidays excepted, keep his office open as herein provided. During those sixty days he shall publish at the expense of the parish, in its official journal, a list of the places of registration and the length of time they shall remain open. If there is no official journal, the registrar shall post the list at or near the polling precinct.

C. In any parish containing a municipal corporation of more than two thousand persons when such parishes do not elect to come under the provisions of a permanent registration law the registrar or his duly appointed deputy shall establish an office in the municipal corporation twice each calendar year fo a period of not less than seven days in any two consecutive weeks, Sundays and legal holidays excepted, with office hours the same as prescribed in R.S. 18:72. The seven day period shall be at any time during the calendar year but at least thirty days before the closing of the registration, where the registration is required to be closed before an election, as provided in this Chapter.

D. No person may register within thirty days of any general or primary election held in the parish, pro-

vided that the registrar in the parish of Orleans be and he is hereby prohibited from making changes of addresses between the first and second primary. No act of any kind necessary or pertaining to the registration of voters shall be performed in any other place or in any other manner than as provided in this Chapter. As amended Acts 1952, No. 249, § 1; Acts 1954, No. 563, § 1.

§ 74. Branch office in Jefferson parish

A. The registrar of voters for the parish of Jefferson shall establish and maintain a branch office in one of the wards on the east bank of the Mississippi river in the parish of Jefferson for the registration of voters.

B. The police jury of the parish of Jefferson shall make an office available without cost to the state for the establishment and maintenance of said branch registration office. Acts 1950, No. 175, §§ 1, 2.

§ 91. Permanent records; card index of voters

Registrars shall keep the following in their principal offices, as permanent records:

(1) Original applications for registration, filed alphabetically; provided that the registrar, in the event of the erasure of a name, or the disqualification of a registrant, shall remove the original application of the registrant from the file, and shall place the original application of the disqualified voter in a separate file, to be designated as the "closed" or "disqualified" file;

(2) Originals of all affidavits made pursuant to any of the provisions of this Chapter;

(3) The original reports made by any person required by the provisions of this Chapter to make reports to the registrar;

(4) A register for each voting precinct in his jurisdiction, which shall be a permanent bound volume, containing blanks, numbered consecutively, and containing columns for the following information:

(a) The number of the certificate of registration issued to each registrant;

(b) The date of registration;

(c) The full name (given names and surname) of the registrant, his residence (street and municipal number, if any), age, color, sex, occupation; if employed, name of employer; where born; whether property owner, tenant, or boarder; party affiliation, if any; signature of registrant in his full given names and surname, if able to sign, otherwise, his full name aforesaid by his mark authenticated by the registrar or deputy;

(d) Remarks.

(5) A permanent original stub registration certificate book for each precinct, containing on stub and corresponding certificate, in form prescribed by the board of registration, the following information:

(a) The number of the registration certificate issued to the registrant, printed in red ink on the stub and corresponding certificate;

(b) Ward and precinct, printed in red ink on the stub and corresponding certificate;

(c) A blank for the full given and surnames of the registrant;

(d) A blank for the date of registration;

(e) A blank for the full signature of the given and surnames of the registrant, authenticated by the signature of the registrar on the certificate of registration issued to him.

The certificate shall also provide, on its reverse, a space in which may be endorsed by the precinct election officials a record of the fact that the voter has voted in each election, and the date thereof. In parishes other than the Parish of Orleans, the certificate need not be presented to the commissioners of election at the time the registrant offers himself as a voter, except when, through error, his name has been omitted from the official poll list.

(6) A duplicate stub certificate book, in which each certificate shall be plainly marked with the word "Duplicate" in contrasting color of ink, to be used by the registrar in furnishing duplicate certificates to registrants who have lost or accidentally destroyed the certificates originally issued to them;

(7) In addition to the records hereinabove specified, in the Parish of Orleans the registrar shall also make and keep a card index of voters, arranged according to wards, precincts, streets, and municipal numbers;

(8) A permanent record of all publications for erasures, giving the date of publication, and also, in the Parish of Orleans, a permanent record of publication of registrants, as provided for in R.S. 18:162.

92. Records open to inspection; copying, photographing, or photostating; charges

All of the above records are public records and shall at all times during office hours be open to inspection by any qualified registered voter. Upon the written application of twenty-five or more qualified registered voters of the parish, these records shall be open for copying, photographing, or photostating, unless such inspection, copying, photographing, or photostating will seriously interfere with the registration of voters, or otherwise seriously interfere with the performance of any duty of the registrar imposed upon him by law. If the registrar claims that such will seriously interfere, he shall arrange to permit such inspection after office hours, under the supervision of himself or of any deputy he designates and he shall afford opportunity and facilities for that purpose, if so requested, for at least four hours in any calendar day, Sundays and holidays excepted.

In the Parish of Orleans, when called on by twenty-five or more qualified registered voters to permit the photographing or photostating of any part of his records in accordance with this Section, the registrar may cause such photographic or photostatic copies of his records as called for by such voters to be made in his office, by his employees, and deliver them to the voters, certified to as a correct copy. Such photographing or photostating shall be done, if so requested, in the presence of a representative of the group of voters. The registrar shall make a charge for the copies, not in excess of the prevailing commercial rates in the community for such work. He may require, in advance of the work an amount approximating its estimated cost.

§ 93. Refusal or neglect to grant right of inspection; remedies

If the registrar fails or refuses to grant the opportunity and right provided in R.S. 18:92, the voters may apply by rule, without cost, to the district court having jurisdiction for a peremptory order to the registrar to permit such. The rule is returnable within forty-eight hours. The court shall hear the rule in a summary way and by preference, in term time or vacation, and shall decide it within twenty-four hours after submission.

If the court finds that the plaintiff in rule is entitled to the relief prayed for, it shall enter its order requiring performance on the part of the registrar, and shall hold the registrar in contempt if he does not comply within three days after the entry of the order. However, this civil remedy does not preclude any other civil remedy or criminal prosecution of the registrar as provided in this Chapter for such failure or refusal.

§ 94. Alteration, defacing, destruction, or removal of records; penalty

No registrar, deputy, clerk, or employee of any registrar, or any person having or having been given access to, or right of inspection, copying, or photographing of, any book, card, record, or other document pertaining to the registration of voters, shall illegally or improperly alter, add to, deface, destroy, or remove same from the custody of the registrar.

Whoever violates this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than sixty days nor

more than six months, or both. However, nothing in this Section prevents a competent court from requiring, by proper order, the production by the registrar in court, in any proceeding pending therein, of any document, book, card, or record necessary and material, in the opinion of the court, to the determination of the proceeding; such documents do not become permanent Records of the Court, but shall be returned to the custody of the registrar immediately after inspection by the court. The court may require a photostatic copy thereof to be placed in the record.

§ 111. Criminal convictions; record and report by court clerks

The clerk of the district court of each parish and the clerk of the Criminal District Court for the Parish of Orleans shall each record in a book in his office immediately thereafter the sentence of every person for any crime punishable in the penitentiary, and on or before the tenth day of each calendar month shall furnish and deliver to the registrar, certified by his signature, a list of all such persons sentenced, giving their names, aliases, and addresses. The registrar shall at once erase from the precinct register the name of any such person who is a registered voter by drawing in red ink a line through the registration record, noting in the "remarks" column the date of the report. The person whose name is erased ceases to be a registered voter until his sentence is set aside, or he is pardoned with express restoration of the franchise.

§ 112. Report of deaths; procedure

The president, or in his absence or inability to act, the secretary of the State Board of Health shall likewise

report quarterly, on the twentieth day of the month following the end of each quarter-year, to the respective registrars, except the registrar of the Parish of Orleans, certified as correct over his signature, a list containing the names, addresses, and sex of all persons over twenty-one years of age who have died in the parish within the preceding quarter-year. The respective registrars shall at once investigate the facts, and after establishing the identity of those deceased shall, in the same manner, strike and erase those names from the precinct register, with notations as prescribed in R.S. 18:111.

In the Parish of Orleans the president, or in case of his absence or inability to act, the secretary of the Board of Health of the City of New Orleans shall likewise report, on the tenth of each month, to the registrar of the Parish of Orleans, certified as correct over his signature, a list containing the names, addresses, and sex of all persons over twenty-one years of age who have died in the parish within the preceding calendar month.

The registrar shall at once investigate the facts and, after establishing the identity of the deceased shall, in the same manner, strike and erase the names from the precinct register, with notation as prescribed in R.S. 18:111.

§ 113. Charitable institutions; report of list of inmates

The head officer of every charitable institution in the state, the Soldiers' Home, the United States Marine Hospital at Carville, and charity hospitals other than insane asylums excepted, shall likewise report quarterly, on the twentieth of the month following the end of the quarter-year, to the respective registrars, certified

as correct over his signature, a list containing the names, addresses, and sex of all inmates over twenty-one years of age admitted during the preceding quarter-year. The registrar shall then proceed as provided in R.S. 18:111.

§ 114. Apartment houses, hotels, lodging, rooming, or boarding houses; report of occupants; time for report

Any person in control of any apartment house, hotel, lodging, rooming, or boarding house wherein the registrar shall at any time find at least five persons registered therefrom shall within ten days after the written demand of the registrar, under oath to be administered by the registrar or some officer authorized by law to administer oaths, make a report showing the full given and surnames of all of the occupants over the age of twenty-one who have continuously resided therein for at least three months prior to the report. The registrar shall demand this report at least once in the calendar year, and in any event ninety days prior to any primary or general election.

§ 115. Penalty for failure to make report

Whoever fails or refuses to make the reports as provided in this Part shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both.

§ 131. Canvass of names on precinct registers; police assistance; penalty

The registrar shall diligently, from time to time, and at least once in each calendar year, personally or through his deputies or inspectors or through the police

or other peace officers of the parishes or municipalities under his jurisdiction, canvass the names appearing on the precinct registers of his parish. For this purpose each registrar may require such police or peace authorities to make the canvass, and to make due report to him of their findings.

Any such officer so called upon or required who fails or refuses to perform such duty, and any officer or person designated for that purpose who wilfully or knowingly makes a false report, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than sixty days nor more than six months, or both.

§ 132. Illegal or fraudulent registration; removal or other loss of right; cancellation of registration; affidavit; absence from state; erasure of name from precinct register

Whenever the registrar has reason to believe that any name upon the books of registration has been illegally or fraudulently placed therein, or that any person has lost the right to remain thereon, he shall immediately notify the person by mail, at his address appearing upon the precinct register, of the alleged irregularity in registration, sending with the notification a printed citation requiring the person to appear within ten days from the mailing of the notice and citation, which date shall be stated in the citation, to show cause why his name should not be erased from the precinct register. The registrar, as soon as at least six names have accumulated, or in any event within not more than five days after mailing the notification, shall publish a notice segregating such names by ward

and precinct, and requiring the registrants to appear in his office and prove the correctness of their registration. The publication shall appear in the official journal, and at the expense of the parish or municipality, as the case may be, for two consecutive days, except where no daily paper is published, in which latter case, one publication shall be sufficient, and if no paper is published in the parish, one publication in a newspaper of general circulation therein, provided no publication shall be made on a Sunday. The publication shall require the registrants to appear within three days of the last publication and prove the correctness of their registration. If the registrants fail to appear within three days from the date of last publication, or within ten days from the date of mailing of the notice, whichever date is later, the registrar shall at once cancel the names from the precinct register and make a note thereon of the date of cancellation. However, if the registrants appear in person within the time aforesaid, and proof is submitted by them in the form of an affidavit signed and sworn to before the registrar or his deputy by three bona fide registered voters of the parish, that such persons are legally entitled to remain on the books of registration, their names shall remain as voters on the precinct register, unless ordered erased therefrom by order of court, as provided in this Part.

The form of affidavit to be sworn to by the three bona fide registered voters shall read as follows:

"Personally came and appeared on this the ..... day of ....., 19 ..., before me, ... (Deputy) Registrar of Voters in and for the Parish of ....., State of Louisiana, ..., and ....., who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case, and of their own personal knowledge know that now resides at Street; Precinct No. , Ward No. of this Parish, and has continuously resided in that precinct and ward for the past months, and during that time has resided at the address aforesaid, and has resided in the Parish of for a period of ."

If any registrant has been continuously and actually absent from the state from a date prior to the date of the first publication aforesaid, the erasure of his name from the precinct register shall be suspended for a period of thirty days from the date of the first publication, if, prior to the expiration of the period allowed for his appearance, three bona fide registered voters of the parish make an affidavit to that effect before the registrar. The affidavit shall be in the following form:

"Personally came and appeared on this day of , 19 , before me (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, , and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case and of their own personal knowledge know that had been absent from the State of Louisiana since prior to the day of , 19 . and now is absent from the state; that of their personal knowledge , registrant, is a legally registered voter in Precinct No. , Ward No. , of this parish, at the address stated in the publication."

If the registrant does not appear and make this proof of his right to continue as a registrant within the thirty-day period, his name shall be erased by the registrar from the precinct register, and notation of the date of erasure shall be made thereon.

§ 133. Illegal registration or loss of right to vote; notice to registrant; erasure of name on failure to prove right

Upon an affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, at the addresses given in the precinct register, the duplicate copy of the affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall erase their names from the precinct register.

§ 134. Refusal or failure of registrar to mail notice or erase name; summary court proceedings

Should the registrar fail or refuse to mail the notice, to make the publication, or to erase a name when by the provisions of this Chapter it becomes his duty to do so, the person making the affidavit may, by rule on the registrar returnable within forty-eight hours after service, excluding Sundays and legal holidays, apply to the district court for the parish, without cost, and cause the registrar to show cause why such should not be done. The rule shall be tried in a summary way and by preference, in term time or in vacation, and the court shall immediately upon conclusion of the hearing enter its order in the premises. If the rule is granted, it shall fix a period of not more than three days from the date of the order within which the registrar shall comply therewith, and failing in which the registrar shall be held in contempt of court and punished accordingly.

§ 135. New registration necessary after erasure of name

A person whose name has been erased as provided in this Part shall not be permitted to vote except upon a new registration properly made in accordance with the provisions of this Chapter.

§ 136. Removal from precinct or parish

The removal of a registrant from one precinct to another in the same parish does not deprive him of the right to remain as a legal registrant in the precinct from which he has removed until three months after the removal. The removal from one parish to another does not deprive any registrant therein of the right to remain as

a legal registrant in the parish from which he has removed, for the purpose of voting for district officers to be elected in a district which includes the parish to which he has removed, or for state officers, whether the parish is in the same district or not, until he has acquired the right to register and vote for such officers in the parish to which he has removed.

§ 137. Removal from ward or precinct; affidavit; change of registration records

By making affidavit of change of residence, giving date of removal to the registrar or his deputy, a registrant moving from one election ward or precinct to another in the same parish and therein continuously residing for three months shall have the registration records changed accordingly to correspond with his new residence, in the manner provided in R.S. 18:34.

§ 138. Denial of registration; remedies of applicant

Any person possessing the qualifications for voting prescribed by law who is denied registration may apply without cost for relief to the district court having jurisdiction of civil causes for the district in which he offers to register. The court shall then try the cause, giving preference over all other cases, before a jury of twelve, nine of whom must concur to render a verdict. This verdict is a final determination of the cause. The trial court may, however, grant one new trial by jury. In no case shall an appeal lie or another court exercise the right of review.

§ 161. Filing card indexes and other records

In the Parish of Orleans the registrar shall make and file in his office the card indexes and other records called for in Part IV of this Chapter within five calendar days, with respect to each registrant. In other parishes this shall be done within ten calendar days.

§ 162. Parish of Orleans; publication of names and addresses of registrants; expense

In the Parish of Orleans the registrar shall prepare and over his signature certify and cause to be published in the official journal of the City of New Orleans on the tenth of each month, unless this day is a Sunday, in which case on the following day, the names and addresses of all who have been registered during the preceding calendar month, arranged according to wards and precincts. The expense of publication shall be borne by the municipality, and annually budgeted by the municipality and paid for by it on the certificate or warrant of the registrar.

§ 163. Certified list of registered voters; filing; inspection

All registrars except the registrar for the Parish of Orleans shall file a complete certified list by ward and precinct of the registered voters of the parish contained in the office of the registrar with the clerk of the district court of the parish not later than twenty days prior to the date of any primary, general or special election. The list shall be open to the inspection of any qualified voter at all times. Copies and photostats thereof may be made by the voters.

§ 164. Loss or destruction of certificate of registration; duplicate certificate; oath of applicant

Registrars shall issue duplicate certificates of registration at any time prior to a primary or general election to persons whose original certificates have been lost or destroyed, if the name of the person applying for the duplicate certificate is found on the precinct register and has not been cancelled for any cause, and if the applicant has subscribed to the following oath, to be administered by the registrar or his deputy:

"I do solemnly swear (or affirm) that I have been duly registered as a voter in Ward , Precinct , Parish ; that there has not been issued to me any certificate of registration in any other parish, ward, or precinct in this state that has not been erased and cancelled within the current period of registration; that my original certificate of registration has been lost or destroyed. So help me God."

The duplicate registration certificate shall bear the same number as the original and in other respects shall be the same, except that it shall be printed on paper of a different color. The word "Duplicate" shall be printed thereon. The registrar or his deputy issuing it shall mark the letter "D" in red ink to the left of the original certificate number on the precinct register, and shall also mark in red ink the letter "D" on the original stub of the original certificate book.

§ 165. Periodical registration

The new and complete registration had under the provisions of this Chapter in every parish, beginning Janu-

ary 2, 1941, remains in effect until December 31, 1948. On the second day of January, 1949, and every fourth year thereafter, registrars shall make a new and complete registration of the qualified voters in their parishes, and after December 31 of any four year period, all previous registrations are null, except as provided in Part X of this Chapter; provided, that the registration of all voters serving in any branch of the military (or naval) service, or auxiliaries thereto, as of December 31, 1952, is hereby extended until July 31, 1953, and the registration of such voters may be renewed for the remainder of the four year period, beginning January 1, 1953, in the manner hereinafter prescribed:

Each registrar, not later than January 31, 1953, shall mail, using P.O. Form 3547—Requested, postage prepaid, to each qualified elector of his parish serving in any branch of the military (or naval) service or auxiliaries thereto, who is registered as of December 31, 1952, at the last address of the registrant appearing on the registration record, a copy of his (or her) certificate of registration, in duplicate. If the registrant signed his registration application at the time that he registered, he shall sign each certificate of registration in the space provided for his signature, signing on both sides if a card with identical front and back is used.

(1) If the registrant did not sign his name at the time he registered, the registrar shall also mail with the certificate an affidavit to be signed by the witnessing commissioned officer. Such affidavit shall be in substantially the following form:

"I certify that appeared before me, the undersigned Officer, to mark his registration certificates; that he was unable to sign his name because of physical disability (or was unable to read and write), and that I assisted him and caused him to make his mark (X) on his registration certificates.

"This the day of , 1953.

(Name of Officer, Rank and Command)"

The registrant shall sign his mark on each certificate of registration in the space provided, making his mark on both sides if a card with identical front and back is used, and such mark shall be witnessed by any commissioned officer in authority over him who shall sign his name to the affidavit. By signing the certificates of registration with his name or mark, the registrant certifies to the truth and correctness of the information stated in the certificates. The registrant shall return the certificates of registration and the affidavit, if the registrant signed with his mark, to the office of the registrar, not later than July 31, 1953.

(2) With the certificates of registration, the registrar shall mail to each registrant who signed his name on his registration application, a return addressed envelope, postage prepaid and a notice reading substantially as follows:

"Your present registration is extended and continues in full force and effect. In order to avoid cancellation of your registration, however, it is necessary for you to comply with instructions contained in this letter.

"The registrar has certified that the enclosed Certificate of Registration, in duplicate, is a true and correct copy of your registration papers. There is a space for your signature on each certificate.

"Examine carefully these Certificates of Registration. By signing, you record your signature for identification purposes at the polls and you certify that the information, as stated in the certificates, is true and correct.

"If the information is true and correct, sign both Certificates of Registration and mail them to the Office of the Registrar so that they will be received by the Registrar not later than July 31, 1953.

"If the information is not true and correct, it will be necessary for you to appear in person at the Office of the Registrar and furnish the correct information.

"If the registrar does not receive your Certificates of Registration, properly signed, on or before July 31, 1953, your registration will be cancelled, and thereafter you will not be permitted to vote unless you appear in person and register at the Office of the Registrar.

"If, hereafter, you change your home address, you must notify the registrar in order to avoid cancellation of your registration."

With the certificates of registration, the registrar shall mail to each registrant who signed his mark on his registration application, a return addressed envelope, postage prepaid, and a notice reading substantially as follows:

"Your present registration is extended and continues in full force and effect. In order to avoid can-

cellation of your registration, however, it is necessary for you to comply with the instructions contained in this letter.

"The Registrar has certified that the enclosed Certificate of Registration, in duplicate, is a true and correct copy of your registration record. There is a space (or spaces) for you to sign your mark on each certificate.

"Have these Certificates of Registration read to you and be sure that you understand them fully. By signing your mark, you certify that the information, as stated on the certificates, is true and correct.

"If the information is true and correct, sign your mark on both certificates of registration in the presence of any commissioned officer in authority over you. You must then mail the Certificates of Registration and the enclosed affidavit signed by the commissioned officer, to the office of the Registrar so that they will be received by the Registrar not later than July 31, 1953.

"If the information is not true and correct, it will be necessary for you to appear in person at the office of the Registrar and furnish the correct information.

"If the Registrar does not receive your Certificates of Registration, signed with your mark and properly witnessed, on or before July 31, 1953, your registration will be cancelled, and thereafter you will not be permitted to vote unless you appear in person and register at the office of the Registrar.

"If, however, you change your home address, you must notify the Registrar in order to avoid cancellation of your registration."

(3) When the Registrar receives the Certificates of Registration signed by a registrant in the space reserved for his recorded signature, he shall compare this signature with the registrant's signature on file in the office of the registrar. If he is satisfied that the signature is in fact the signature of the registrant and that the information on the certificates has not been altered, he shall file the certificates in the appropriate registers. When the registrar receives the certificates of registration signed with the registrant's mark, the registrar, if satisfied that the certificates are properly witnessed as far as can be determined by its official endorsement, and that the information on the certificates has not been altered, shall file the certificates in the appropriate registers.

(4) Registrations shall be subject to cancellation as are hereinafter provided:

(a) If the Certificates of Registration mailed to a registrant are returned to the registrar by the post office because of inability to locate the addressee at the given address; or

(b) If the registrar, on or before July 31, 1953 does not receive from a registrant the Certificates of Registration mailed to such registrant; or

(c) If the registrar is not satisfied that registrant's signature on the Certificates of Registration is the registrant's signature; or

(d) If the registrar is not satisfied that a commissioned officer in authority over the registrant has properly witnessed and assisted, where the registrant has signed with his mark; or

(e) If the registrar has reason to believe that the information on the certificates of registration has been altered.

When the registrar determines that the registration of a registrant serving in any branch of the military (or naval) service or auxiliaries thereto is subject to cancellation for any of the foregoing reasons, he shall immediately notify the person by mail, postage prepaid, using P.O. Form 3547—Requested. In case the mailed certificates are returned to the registrar by the post office because of inability to locate the given addressee, or in case the registrar has not received by July 31, 1953, the certificates which were mailed to the registrant, the registrar shall mail the notice to the last address of the registrant appearing on the registration record.

Not later than September 30, 1953, the registrar shall publish the names and addresses of all registrants, segregated by ward and precinct, whose registrations are subject to cancellation for any of the foregoing reasons. This publication shall require the registrants listed therein to appear within ten days of the last publication and prove the correctness of their registration. The publication shall be made in the official journal, at the expense of the parish or municipality, as the case may be, and shall be published for two consecutive days, on the same two consecutive days on which the names cancelled for other causes are published, except where no daily paper is published, in which case one publication shall suffice. If no paper is published in the parish, one publication in a newspaper of general circulation shall be sufficient, provided that no publication shall be made on a Sunday.

If any such registrant fails to reply within thirty days from the date of the last publication, the registrar shall forthwith mark the registrant's name cancelled on the registration record. If a registrant replies within the time aforesaid, his registration shall remain in full force and effect upon his satisfying the registrar of the correctness of his registration or upon proving his right to remain registered, by an affidavit of three bona fide registered voters of the parish in the form set forth in R.S. 18:132; provided, that in any case the registrant shall affix his signature on a certificate of registration, in duplicate, one of which shall be marked "For Precinct Register" and the other "For Duplicate Precinct Register", in the space provided for his recorded signature, or if unable to sign his name, shall affix his mark in the presence of any commissioned officer in authority over the registrant.

(5) Nothing contained in this Section shall affect the right of a duly qualified voter to register by appearing in person at the office of the Registrar and complying with the provisions of this Title. As amended Acts 1952, No. 415, § 1.

§ 166. Poll list to be delivered by registrar; alphabetical arrangement; certification

All registrars except the registrar for the Parish of Orleans, within five days preceding any primary or general election, shall deliver to the chairmen of the respective parish committees, in case of primary elections, and within the same time to the board of supervisors of elections, in case of general elections, a poll list, alphabetically arranged, containing the names, addresses, age,

and sex of duly registered voters, with their registration certificate numbers, for each precinct within his jurisdiction, for use of the commissioners of the election. The list shall be certified over the signature of the registrar as showing all registrants in the precinct who are entitled to vote at the election. However, for a primary election, the poll list shall contain only the names and data above required of such voters as have affiliated with the party holding the primary. The poll list shall be securely wrapped and sealed by the registrar, and his certificate, as aforesaid, shall be pasted or attached to the outside thereof.

§ 169. Control and custody of registration books and other records

The books of registration, together with all the records, registry stub books, and all other books and paraphernalia used for the conduct of the registrar's office, shall at all times be kept under the control of and in the custody of the registrar at his principal office. They shall not be removed therefrom for any purpose except upon an order of a competent court, except the parish register and registration certificate books when these are necessary for the registration of voters, when registration is permitted at places other than at the central office.

§ 170. Close of registration; exceptions

Registrars shall close registration of voters thirty days prior to any primary or general election. No entries or changes in the books of registration shall be made thereafter, except for the following purposes:

(1) To carry into effect at any time prior to the date of the election the orders of the courts, in cases of applications and appeals heard and determined as provided for in this Chapter;

(2) To effect any transfer from precinct to precinct in the same parish, which transfers may be made at any time prior to the election, provided that in the Parish of Orleans, the registrar shall be prohibited from making such changes between the first and second primary;

(3) To issue duplicate registration certificates, which may be done at any time prior to the election;

(4) To effect cancellations and erasures, as required or authorized by this Chapter;

(5) To correct clerical errors. As amended Acts 1954, No. 562, § 1.

§ 191. Rules and regulations; board of registration; director and ex-officio secretary

A. Except as otherwise in this Chapter specifically provided, the board of registration shall prescribe by general rules and regulations duly promulgated the method of the administration of this Chapter, and the character and forms of record, affidavits, and other documents necessary or proper, in its opinion, to carry into effect the provisions of this Chapter, and shall file them in the office of the Secretary of State.

B. The office of director of registration is created. The director shall be a qualified elector, over thirty years of age. He shall be appointed by the board of registration and shall serve at the pleasure of the board. His

duties shall be to administer the rules and regulations of the board of registration and he shall perform such other duties in connection with the powers of the board of registration and the promotion of registration of the voters of the State as may be directed by it. His salary shall be sixty-six hundred dollars per annum. He shall ex-officio be secretary of the board of registration.

C. The registrars of voters shall forward to the director of registration copies of all reports made by them to the Secretary of State.

D. The legislature shall appropriate sufficient moneys for the salary of the director and the expenses of the offices of the director and the board of registration.

E. Service of the director as a registrar of voters shall be deemed creditable service in the application to him of any provision of the State Employees Retirement System, R.S. 42:541 through 42:672. As amended Acts 1950, No. 33, § 1.

§ 195. Report by registrar to Secretary of State; tabulated statement for legislature

The registrar of each parish, at least ten days before the general election, shall forward to the Secretary of State an accurate report of the number of male and female voters in his respective parish, the number of native and foreign born, and the number of white and colored voters, respectively, who write their names and the number of people who make their mark. The Secretary of State shall furnish the legislature a tabulated statement of the report, when called upon to do so.

§ 196. Mandatory duties of registrar; ministerial character; compelling performance by mandamus or other process; appeal

Whenever by any provision of this Chapter any duty is expressly imposed upon the registrar to do or to refrain from doing any act, the provisions of this Chapter shall, in that respect, be considered mandatory upon the registrar. The duties of the registrar, except in such Sections of this Chapter or of the constitution wherein there is a necessary inference to the contrary, are ministerial in character, and may be compelled at the suit of two or more qualified electors of the parish, by any district court having jurisdiction of the parties, by mandamus or other appropriate process or proceeding for relief. The proceeding shall be against the registrar as sole defendant, and may be instituted and prosecuted without cost in the district court. It shall be heard and determined by preference, in term time or in vacation. The costs of appeals shall be assessed against the losing parties, individually. The appellant shall give bond for a sum to be fixed by the court to cover all such costs. An appeal shall be filed in the proper appellate court within five days from the rendition of the judgment and shall be tried on the original records and by preference over all other cases whatsoever. The appellate court shall render its decision within twenty-four hours after submission.

Upon perfection of an appeal, the clerk of the district court shall immediately notify the appellate court in writing, and the appellate court shall immediately set the appeal down for hearing without waiting for the actual lodgment of the record. The appellate court shall hear and determine such appeals at the earliest practicable

moment. The chief justice if the appeal runs to the supreme court, or the presiding judge, if the appeal runs to one of the courts of appeal, shall convene the court at once, in special session if necessary to hear the appeal. No application for rehearing on the appeal shall be entertained, but the appellate courts may, upon their own motion correct manifest errors to which their attention is called.

§ 233. Personal appearance; place and method of registration

Every applicant shall appear personally before the registrar or his deputy at a designated place of registration and comply with the provisions of this Part. No applicant shall be otherwise registered by the registrar, or shall be allowed to register at any other place than permitted in this Part. Added Acts 1952, No. 415, § 2.

§ 235. Records

The several registrars in the parishes of the state shall keep permanent records in their principal offices in accordance with this Section. After August 1st, 1953, these records shall include a Master Record File, a Precinct Register and a Duplicate Precinct Register, and a Closed and Disqualified File.

Each applicant for registration, in addition to completing and signing his application for registration, shall affix his signature or mark, as the case may be, on the certificate of registration marked for precinct register and on the duplicate certificate of registration marked for duplicate precinct register, as provided in this Section.

(1) The Master File.

(A) The master file shall consist of all the original registration applications, as provided in R.S. 18:32, with all subsequent entries.

(B) Each applicant for registration shall affix his signature or mark, as the case may be, on his application for registration in the space provided for his signature.

(C) After a registrar is satisfied that an applicant for registration has fulfilled the requirements of the constitution and of this Chapter, the registrar shall accept the registrant's signed registration application, shall affix his signature in the space provided for the registrar's signature, and shall place the application in the master file.

(D) The master file shall be arranged alphabetically by surname for the parish. The name and address of the applicant shall be hand-printed or typed at the top margin of the application card to facilitate filing in the master file. Any other reasonable memoranda may be added which are necessary or convenient to enable the registrar to perform his duties in assorting or classifying the application forms.

(E) This master file shall constitute the central index file and shall remain at all times in the principal office of the registrar.

(2) The Precinct Register and the Duplicate Precinct Register.

(A) The precinct register and the duplicate precinct register shall consist of all accepted certificates of registration, which shall have been marked "For Precinct Register" and "For Duplicate Precinct Register", and filed for every precinct.

The certificates of registration shall be individual cards or loose-leaf pages designed for filing in a loose-leaf register which allows for the exposure of a visible margin on each card. The cards shall be of a uniform size and may be printed both sides the same, so that the card may be reversed when the columns for the voting record of the registrant are all filled, or when the spaces for change of address or political party are filled.

Each certificate shall contain spaces appropriately entitled for the entry of the following information:

(a) The voter's full name, including given name, the name or initial of other names, and the surname. The given name of a woman shall be preceded by the designation of Miss or Mrs. The signature of a married woman shall include her given name or names, her maiden name or the initial of her maiden name, and her husband's surname;

(b) The voter's place of residence and post office address in sufficient detail to identify it and to determine the registrant's voting precinct; the number or designa-

tion of the room, apartment or floor occupied by the voter if he does not claim the entire building as his residence;

(c) Changes of address or residence within the parish and the dates of all such changes;

(d) The ward and precinct in which such residence addresses are located;

(e) Changes of ward and precinct;

(f) Dates of commencing present period of residence in state and in parish;

(g) Name or initial of the political party with which the voter affiliates;

(h) Changes of political party with which the voter affiliates and the dates of all such changes;

(i) The date of registration and the recorded signature of the registrant, to be used for identification of the registrant at the polls;

(j) The voting record of the registrant, divided into columns for the date of election, the signature of the registrant, and the signature of the election commissioner if the signatures of the registrant and the commissioner are required by law and when personal identity is required, under the following headings:

1st Column: Date of Election

2nd Column: I affix my signature to identify myself as the same person who recorded his signature above and as duly registered and qualified to vote in election held on the date shown opposite my signature.

3rd Column: I, the undersigned commissioner, certify that this certificate of registration was signed in

my presence on the date indicated, that the signature was by me compared with the recorded signature above, and it being believed by me to be genuine, the registrant was permitted to vote.

(k) Descriptive data to facilitate identification of the voter, including date of birth, place of birth, mother's first or maiden name, color of eyes, sex, and race or color; occupation; and whether owner, tenant, boarder or other;

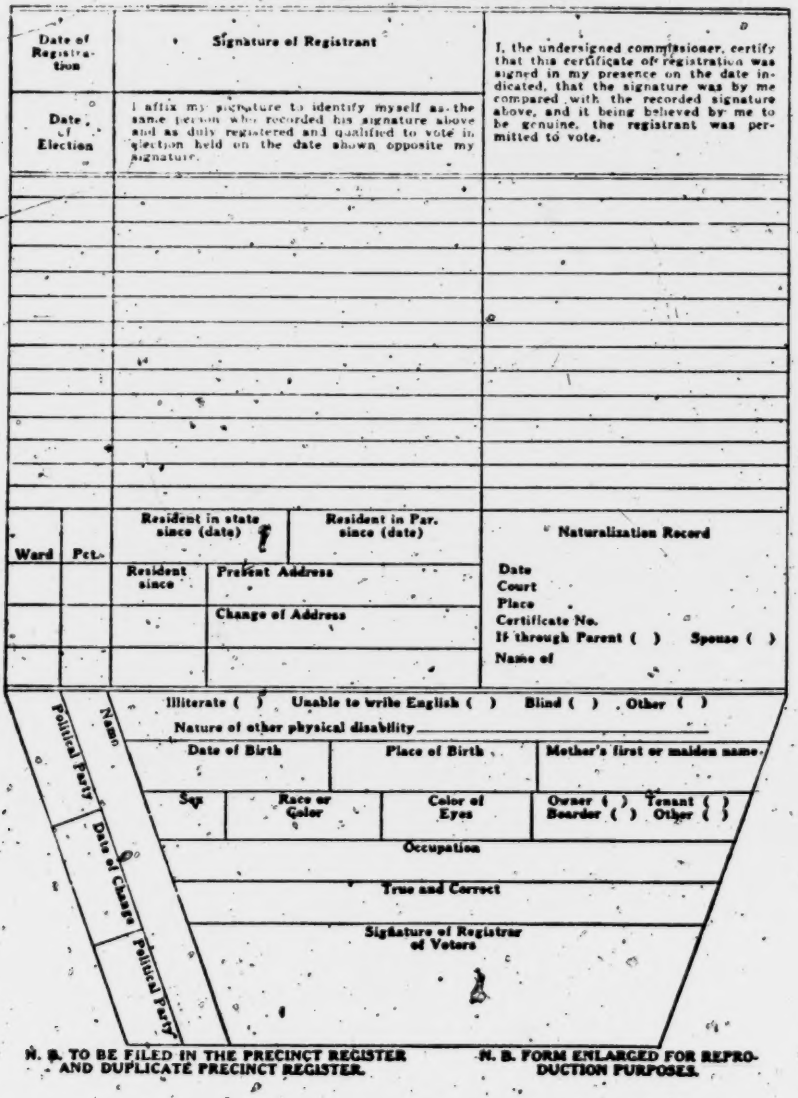
(l) Naturalization record, including date, court, place, certificate number, and if through parent or spouse, the name of parent or spouse;

(m) Whether the voter is illiterate, unable to write English, blind, or unable to write by reason of some other physical disability, and the nature of such other physical disability. Spaces for this information shall be provided on all cards for the sake of uniformity and economy in printing. However, in the event of the registration of a disabled or illiterate person under Section 1 of Article VIII of the Louisiana Constitution, cards of a distinctive color shall be used, one color to designate those registering as illiterate and another color to designate those registering as unable to write English, blind, or unable to write by reason of some other physical disability;

(n) Certification and signature of the registrar;

(o) The certificate of registration, both front and back, may be in substantially the following form:

CERTIFICATE OF REGISTRATION



N. B. TO BE FILED IN THE PRECINCT REGISTER AND DUPLICATE PRECINCT REGISTER.

N. B. FORM ENLARGED FOR REPRODUCTION PURPOSES.

(B) Each registrant shall affix his signature or mark, as the case may be, on the certificate of registration in the space provided for the registrant's signature, signing on both sides if a card with identical front and back

is used, and likewise on the duplicate certificate of registration. The registrant's signature is affixed on the certificates of registration for the purpose of comparison with the registrant's signature at the polls made before he is permitted to vote. Comparison of signatures shall be made in the presence and view of the commissioners or bystanders. If the applicant is unable to sign his name, he shall affix his mark and be identified by comparison with the descriptive information on the certificate of registration, in the presence and view of commissioners or bystanders, before he is permitted to vote.

(C) The registrar shall complete a certificate of registration in duplicate for each application, and shall certify that the information on the certificates of registration is true and correct by signing the certificates in the spaces provided for the registrar's signature, signing on both sides if a card with identical front and back is used. One such certificate shall be marked "For Precinct Register" and the other shall be marked "For Duplicate Precinct Register".

(D) The certificates of registration marked "For Precinct Register" shall be filed in the precinct register for the precinct for which the registrant is registered. The certificates of registration filed in the registers may be arranged in alphabetical order by surnames according to precincts, or, if desired, the certificates of registration may be arranged in alphabetical order by streets according to precincts. In addition, the certificates in each precinct file shall be separated according to party affiliation. The certificates of registration marked "For Duplicate Precinct Register" shall be filed by precincts so that,

when filed together for any precinct, the duplicate precinct register will be arranged in the identical order as the precinct register for any particular precinct. As amended Acts 1958, No. 506, § 1.

(E) The Precinct Register is the record used at the polls for identification and voting record, as provided in R. S. 18:238. The duplicate precinct register is the duplicate for reference or temporary use in case of loss, mutilation or destruction of the precinct register. The voting record of each registrant as entered on his precinct certificate shall be entered on his duplicate precinct certificate. It shall be the duty of the registrar, within three months after each election, to enter all voting records on the duplicate precinct registers.

(F) In the event that any part of an original precinct register should be lost or mutilated, the registrar shall substitute the duplicate precinct register certificates. He shall have photostats made of these particular certificates, shall append thereto his signature, and shall place the photostats in the duplicate precinct register. In the event that any part of a duplicate precinct register should be lost or mutilated, the registrar shall have photostats made from the original precinct register, shall append thereto his signature, and shall substitute the photostats for the lost or mutilated parts of the duplicate register.

In the event that both the original precinct registration card of any registrant and the duplicate substituted in the precinct register should become lost or mutilated, so that there remained only the photostatic copy, the registrar shall send to the registrant affected a postal card

notice, P.O. Form 3547—Requested, stating that the registrant must appear in person to sign a new certificate of registration. The registrant and registrar shall then proceed in accordance with the provisions of paragraphs 2 (C) and 2 (D) of this Section and the registrar shall file the photostatic copy in the permanent records. Should this occur immediately before an election, so that the registrar has insufficient time to place the original and duplicate certificates in the proper precinct binders, the registrar shall also issue to the registrant a special certificate. Such special certificate shall be good and valid only for the single election to which it is made applicable. The special certificate shall contain spaces for the signature of the voter, the signature of the registrar and the signatures of the voting commissioners in charge of the precinct register; and shall have written thereon "For use only in election of (date)," and above voter's signature "I am a registered voter in Parish," and above the commissioners' signatures "We certify that the applicant herein named voted". Upon voting, the registrant shall surrender the special certificate to the voting commissioners who shall deliver to the registrar all such special certificates along with the precinct register. When the special certificate is returned from the polls, the registrar shall enter on the new original certificate of registration the date of election on the voter's special certificate in the voting record column; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar"; and shall write in the space reserved for the voter's signature the words "Special Certificate". The registrar shall enter the date of election on the duplicate certificate, as if the voter had regularly signed his certificate at the polls.

All such special certificates shall be filed in the permanent records.

(G) If, in the case of a registrant who signed his name at the time that he registered, all the spaces on the registration certificate for the voting record are filled, or the registrant has notified the registrar of a change of address or a change of political party and all such spaces are filled, the registrar shall mail, postage prepaid, under P.O. Form 3547—Requested, to each such registrant a new certificate in duplicate with all the information transcribed from the previous certificate, but only the last date voted recorded at the top of the date of election column and present address and present political party recorded. He shall notify the registrant that he must sign both certificates, signing on both sides of each certificate if a card with identical front and back is used, and should correct the information if any changes have occurred since his original registration as to occupation or owner-tenant-boarder status, and must return the certificate in duplicate by mail or in person, to be used in any succeeding election as long as the voter remains otherwise a qualified elector. Upon receipt of the returned signed certificates, if the registrar is satisfied that the signatures written thereon are genuine when compared with the registrant's signatures on the registration records, he shall sign the new cards, marking true and correct, and shall file the certificates in the proper registers.

If, in the case of a registrant who did not sign his name when he registered, all the spaces for the voting record are filled, or the registrant has notified the registrar of a change of address or change of political party and all

such spaces are filled, the registrar shall send to each such registrant a postal card notice, P.O. Form 3547—Requested, notifying him that he must appear in person to sign his mark on a new original and duplicate certificate of registration in accordance with the provisions of this Section, to be used in any succeeding election as long as he remains otherwise qualified to vote. If the registrant affixes his mark on a new original and duplicate certificate as provided in this Section, the registrar shall fill out and sign new certificates, including recording the present address, the present political party and the last election voted, and shall file the certificates in the proper register.

(H) When an affidavit signed by a voter and two commissioners as provided in R.S. 18:238 (5) is returned from the polls, the registrar, if he is satisfied that the signature is genuine when compared with the remaining registration records and that the voter is duly registered, shall notify the registrant, using P.O. Form 3547—Requested, to affix his signature to a new original certificate of registration for filing in the precinct register. After the voter has signed the new certificate, the registrar shall enter thereon the information on the duplicate certificate including the full voting record and the date of election on the voter's affidavit; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar"; and shall write in the space reserved for the voter's signature the word "Affidavit". The registrar shall enter the date of the election on the duplicate certificate, as if the voter had regularly signed his certificate at the polls.

In case the duplicate certificate is also lost when such an affidavit is returned from the polls the registrar, using P.O. Form 3547—Requested, shall notify the registrant to affix his signature to both a new certificate of registration and a duplicate certificate, and shall fill out the certificates from the information on the registration application in the master file. The registrar shall enter the date of the election on the voter's affidavit on the first line in the voting record column; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar", and shall write in the space for the voter's signature the word "Affidavit".

All such affidavits shall be filed in the permanent records.

If the registrar finds that the affiant is not a duly registered voter, he shall send notice, using P.O. Form 3547—Requested, to the affiant to appear within ten days to re-register.

(1) The precinct registers and the duplicate precinct registers shall be in loose-leaf binders equipped with a lock to guard against the unlawful moving or removal of the certificates filed therein. The registers shall be locked except when in active use. Each register shall be sealed before it is permitted to be removed from the office of the registrar.

(3) The Closed and Disqualified File.

The closed and disqualified file shall consist of the registration records of all registrations which have been cancelled for any cause. The registrar, in the event of the

cancellation of any name or the disqualification of any registrant, shall remove the registrant's record from the master file and the certificates of registration from the precinct registers shall place these registration records and certificates in a separate file to be designated as the "Closed and Disqualified File", which is to be filed alphabetically by the parish. Before placing these records in the "Closed and Disqualified File" the registrar shall mark in red ink the word "Cancelled", the date, the reason for the cancellation, and shall affix his signature. On the certificate of registration, the registrar shall make these notations in red ink as follows:

In the column headed "Date of Election", below the last recorded date, he shall write the word "Cancelled" and shall enter the date of cancellation. In the column reserved for the voter's signature at the polls, below the last signature, he shall enter the reason for the cancellation. In the column reserved for the commissioner's signature, below the last signature he shall affix his signature.

(4) Other Permanent Records.

The registrar shall keep a permanent record of all publications for cancellation, giving the date of such publication, and also, in the parish of Orleans, a permanent record of publication of registrants as provided in R.S. 18:162. The registrar shall also keep in his permanent records the original reports made by an officer or person required to make reports to the registrar, the originals of all affidavits made pursuant to any of the provisions of this Chapter, and special certificates. Added Acts 1952, No. 415, § 2.

§ 240. Registrar's duty to challenge for failure to vote

(1) In every parish in which the provisions of this Part are or shall become applicable, the registrar shall, by October 1, 1955, and at least annually thereafter, cancel from the rolls the name of each registrant who has not voted in either a primary or general election within the preceding four year period; except that in parishes containing cities of three hundred thousand population or more, the registrar shall, at least annually, cancel from the rolls the name of each registrant who has not voted in either a primary or general election within the preceding two year period, if the registrant is affiliated with a political party which regularly holds primaries. The name of each registrant who is not affiliated with a party holding a primary in parishes containing cities having a population exceeding three hundred thousand, shall be cancelled from the rolls if the registrant has not voted in a general election within the preceding four year period. In each case the registrant shall have been registered for the respective preceding two or four year period. As amended Acts 1958, No. 13, § 1.

(2) The registrar shall, by carefully inspecting the voting record of every voter, determine which registrations are subject to cancellation in accordance with the provisions of Sub-section (1) of this Section. If the registrar shall determine that any registration is subject to cancellation, he shall promptly notify the registrant by mail, using P.O. Form 3547—Requested, and otherwise, if necessary, to appear within ten days from the date of said notice, to show cause why his name should not be cancelled from the registration records. It shall also be the

duty of the registrar, as soon as at least six such names have accumulated, or in any event not more than seven days after mailing such notification, to publish a notice segregating such names by wards and precincts, and requiring such registrants to appear in his office and show cause why their names should not be cancelled from the registration records.

This notice shall be published in the official journal, at the expense of the parish or municipality, as the case may be, and shall be published for two consecutive days, except where no daily paper is published, in which case one publication shall be sufficient. When the official journal is a daily paper, the notices shall be published on the same two consecutive days of each week, the days to be designated by the registrar, provided that no publication shall be made on a Sunday. If no paper is published in the parish, one publication in a newspaper of general circulation therein shall be sufficient, provided that no publication shall be made on a Sunday. The published notices shall require the registrants to appear within three days of the last publication and prove their right to remain registered. If any such registrant fails to appear within three days from the date of the last publication or within ten days from the date of the mailing of the notice, whichever date is later, the registrar forthwith shall mark his name cancelled from the registration records and shall file the records in the "Closed and Disqualified File". If any such registrant appears within the time aforesaid and requests that his registration be reinstated, the registrar, if satisfied that the registrant has identified himself, will mark on the registration records the date and the word "Reinstated". Reinstatement shall have the

same effect as a new registration, except that notice of registration shall not be sent to the registrant as set out in R.S. 18:237(1).

(3) The cancellation of registration in accordance with this Section shall not affect the right of any person to register subsequently by personal application in the manner provided by this Title. Added Acts 1952, No. 415, § 2.

§ 244. Illegal or fraudulent registration; removal or other loss of right; cancellation of registration; affidavit; absence from state

Whenever the registrar has reason to believe that any name upon the registration records has been illegally or fraudulently placed therein, or that any person has lost the right to remain thereon, he shall immediately notify the person by mail, at his address appearing upon the registration records, of the alleged irregularity in registration, sending with the notification a printed citation requiring the person to appear within ten days from the mailing of the notice and citation, to show cause why his name should not be cancelled from the registration records. The registrar, as soon as at least six names have accumulated, or in any event within more than seven days after mailing the notification, shall publish a notice segregating such names by ward and precinct, and requiring the registrants to appear in his office and prove the correctness of their registration. The publication shall appear in the official journal, and at the expense of the parish or municipality, as the case may be, for two consecutive days, except where no daily paper is published, in which latter case, one publication shall be sufficient. When the official

journal is a daily paper the notices shall be published on the same two consecutive days of each week, the days to be designated by the registrar, provided that no publication shall be made on a Sunday. If no paper is published in the parish, one publication in a newspaper of general circulation therein shall be sufficient, provided no publication shall be made on a Sunday. The publication shall require the registrants to appear within three days of the last publication and prove the correctness of their registration. If the registrants fail to appear within three days from the date of last publication, or within ten days from the date of mailing of the notice, whichever date is later, the registrar shall at once cancel the names from the registration records as provided in R.S. 18:135. However, if the registrants appear in person within the time aforesaid, and proof is submitted by them in the form of an affidavit signed and sworn to before the registrar or his deputy by three bona fide registered voters of the parish, that such persons are legally entitled to remain on the registration records, their names shall remain as voters on the registration records, unless ordered cancelled therefrom by order of court, as provided in this Part.

The form of affidavit to be sworn to by the three bona fide registered voters shall read as follows:

"Personally came and appeared on this the day of , 19 , before me, (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, , and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts

of the case, and of their own personal knowledge know that now resides at Street, Precinct No. , Ward No. , of this parish, and has continuously resided in that precinct and ward for the past months, and during that time has resided at the address aforesaid, and has resided in the Parish of for a period of ."

If any registrant has been continuously and actually absent from the state from a date prior to the date of the first publication aforesaid, the cancellation of his name from the registration records shall be suspended for a period of thirty days from the date of the first publication, if, prior to the expiration of the period allowed for his appearance, three bona fide registered voters of the parish make a written affidavit to that effect before the registrar. The affidavit shall be in the following form:

"Personally came and appeared on this day of , 19 , before me (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case and of their own personal knowledge know that has been absent from the State of Louisiana since prior to the day of , 19 , and now is absent from the state; that of their personal knowledge , registrant, is a legally registered voter in Precinct No. , Ward No. , of this parish, at the address stated in the publication."

If the registrant does not appear and make this proof of his right to continue as a registrant within the thirty day period, his name shall be cancelled by the registrar from the registration records, as provided in R.S. 18:135. Added Acts 1952, No. 415, § 2.

§ 245. Illegal registration or loss of right to vote; notice to registrant; cancellation of name on failure to prove right

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P.O. Form 3547—Requested; at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar

shall cancel their names from the registration records as provided by R.S. 18:135. Added Acts 1952, No. 415, § 2.

§ 246. Cancellation of registration

Whenever a registration is cancelled for any cause, the registrar shall mark on the registrant's master file record and precinct and duplicate precinct certificates of registration the word "Cancelled", shall state on these records the date and cause of cancellation, and shall affix his signature. After making these notations the registrar shall file the registrant's records in the "Closed and Disqualified File". After a registrant's registration has been cancelled he shall not be permitted to vote, except after a new registration, properly made in accordance with the provisions of this Title. Added Acts 1952, No. 415, § 2.

§ 252. Close of registration; exceptions

Registrars shall close registration of voters thirty days prior to any primary or general election. No entries or changes in the books of registration shall be made thereafter, except for the following purposes:

(1) To carry into effect at any time prior to the date of the election the orders of the courts, in cases of applications and appeal heard and determined as provided for in this Chapter;

(2) To change any address requiring transfer of registration from precinct to precinct in the same parish, provided that in the parish of Orleans, the registrar shall be prohibited from making such changes between the first and second primary;

(3) To issue special certificates when a registrant's certificate of registration has been removed illegally from the precinct register, lost, destroyed, or mutilated, as provided in R.S. 18:238.

(4) To effect cancellations, as required or authorized by this Chapter;

(5) To correct clerical errors. Added Acts 1952, No. 415, § 2, as amended Acts 1954, No. 564, § 1.

§ 337. Registration of voters; list of registered voters; photostatic copy of precinct register

No voter may participate in any primary under this Part who has not registered at least thirty days prior to the date of the primary. Seven days prior to every primary all registrars shall make a complete list of all registered voters in every voting precinct in the parish registered as affiliated with the party holding the primary, certify to same, and at least five days before the primary deliver the list to the respective parish committees of the party holding the primary, without any cost or charge whatever. The list shall not contain the name of any elector not affiliated with the party holding the primary. In the Parish of Orleans, the registrar, in lieu of furnishing a list of registered voters for each voting precinct, shall furnish a photostatic copy of the original precinct register for use at the polling places.

§ 341. Watchers; commission; penalties; electioneering; powers and duties; challenging vote

Watchers are commissioned in the same manner as commissioners and are subject to the same penalties

and punishment provided in this Part for failure to perform their duties. They shall be admitted within all parts of the polling place, the same as commissioners. Commissioners, alternate commissioners, and watchers shall not electioneer, engage in political or other discussions, or in any manner interfere with, detain or obstruct any voter. Watchers may remain within the polls after their closing, the same as commissioners, and remain there during the canvass and count of the vote, but shall take no part in the canvass and count nor have any voice in the conduct thereof. Commissioners and watchers, or any qualified voter, may challenge a voter for cause, and watchers shall call the attention of commissioners to any infraction of the law and may keep notes of the conduct of the election. The commissioners shall protect them in the discharge of their duties. Whoever violates this Section shall be punished as provided in R.S. 18:369.

§ 555. Commissioners and clerk; appointment; qualifications; apportionment

In every parish the board of supervisors shall, thirty days prior to any election, appoint three commissioners and one clerk to preside over the election at each polling precinct. They shall be qualified voters of the ward of which the polling precinct forms a part and shall be appointed from lists to contain not less than six names furnished by each political party. These lists shall be furnished to the board at least thirty-five days before the day of election. Any list offered after that date shall not be received, nor shall any such list be received or acted upon or recognized by the board of supervisors of election which shall contain the name of any person not registered as

affiliated with the party handing in the list. Insofar as is practicable, the commissioners shall be so apportioned as to represent equally all the political parties authorized to make nominations. The parish committee, subject to the approval of the state central committee of each political party, shall select the names which are to be sent to the board as provided herein. As amended Acts 1952, No. 439, § 1.

§ 582. Conditions precedent to voting; loss of registration certificate

Whenever any person offers to vote he shall give his name, residence, occupation, and registration paper, if such be required by law, to the commissioners, one of whom shall thereupon announce the same in a loud and distinct tone of voice, clear and audible. If the same are found upon the poll book by the commissioner having charge thereof, the latter shall, in a loud and distinct tone of voice, clear and audible, repeat the same, and the same being checked, the voter shall be allowed, his name being entered upon the poll list, to cast his vote.

In the Parish of Orleans, if a voter who has lost or mislaid his registration certificate presents himself and offers to vote, this right shall not be denied him, provided his name appears on the list and five qualified electors of the precinct join in an affidavit, sworn to before one of the commissioners, that the person offering to vote is the person whose name appears on the list. The affidavit shall be deposited in the ballot box and shall be preserved for six months by the clerk of court, as the basis of a prosecution of perjury if the affidavit is false.

The commissioners in charge of the poll list, the box, and the poll books, respectively, shall be of different political parties or factions, as far as is practicable.

§ 580. Challenge of right to vote

When in any election the right of any person offering to vote is challenged for any cause recognized by law, the commissioners shall require the name, occupation, age, and residence of the person offering to vote. The commissioners shall examine the person upon his oath, and if a majority of the commissioners then present are satisfied that the applicant is a legal voter of the ward and precinct, they shall permit him to vote. But in all cases the person must establish his identity and right to vote by the written affidavits of two bona fide residents of the ward and precinct, the affidavits to be taken before one of the commissioners and placed in the ballot box.

However, nothing in this Section permits commissioners to receive any vote which by law they are required to refuse.

Not more than one challenger for each political party or nominating body shall be permitted to remain just outside of the barrier of each polling place in a position to see plainly what is done within the barrier outside the voting booths, from the opening to the closing of the polls.

§ 1971. Voting rights—Race, color, or previous condition not to affect right to vote

(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people

in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Intimidations, threats, or coercion

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Preventive relief; injunction; costs

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by sub-section (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order.

In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Jurisdiction; exhaustion of other remedies

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Contempt; assignment of counsel; witnesses

(e) Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel. As amended Sept. 9, 1957, Pub. L 85-315, Part IV, Sec. 131, 71 Stat. 637.

SUPREME COURT OF THE UNITED STATES

No. 667. October Term, 1959.

United States of America, Petitioner, v. Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, et al.	On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[February 29, 1960.]

Per Curiam.

Pursuant to its order of January 26, 1960, the Court has before it (1) the application of the United States for an order vacating the order of the Court of Appeals, dated January 21, 1960, staying the judgment of the District Court for the Eastern District of Louisiana, New Orleans Division, dated January 11, 1960; and (2) the petition of the United States for a writ of certiorari to the Court of Appeals to review the judgment of the District Court as to the respondent, Curtis M. Thomas, Registrar of Voters, Washington Parish, Louisiana. Having considered the briefs and oral arguments submitted by both sides, the Court makes the following disposition of these matters:

The petition for certiorari is granted. Upon the opinion, findings of fact, and conclusions of law of the District Court and the decision of this Court rendered today in No. 64, *United States* v. *Raines*, the aforesaid stay order of the Court of Appeals is vacated, and the judgment of the District Court as to the respondent Thomas is affirmed.

It is so ordered.